

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education Pre-K - 12

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BILL: SB 672

INTRODUCER: Senator Gaetz

SUBJECT: Educational Options

DATE: November 17, 2015      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	<b>Favorable</b>
2.			AP	

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**I. Summary:**

SB 672 codifies and modifies educational choice program provisions of the 2015-2016 General Appropriations Act in four policy areas.

The bill establishes mechanisms for the approval of unique postsecondary education programs tailored to the needs of students with intellectual disabilities and statewide coordination of information. Specifically, the bill includes two key components:

- A process through which postsecondary institutions in Florida can voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- A Florida Center for Students with Unique Abilities (statewide coordinating center) for statewide coordination of information regarding programs and services for students with disabilities and their parents.

The bill awards incentive payments to school districts and charter schools that implement districtwide or schoolwide, standard student attire policies applicable to students in kindergarten through grade 8. Each school district or charter school qualifies for a minimum award of \$10 per student if it implements a policy that:

- Prohibits certain types or styles of clothing, while requiring solid-colored clothing and fabrics and short- or long-sleeved shirts with collars; and
- Allows reasonable accommodations based on a student's religion, disability, or medical condition.

The bill codifies and amends a number of provisions of the Florida Personal Learning Scholarship Account (PLSA) program. The provisions increase student access, tighten accountability, and streamline administration.

The bill codifies and amends provisions for the Florida Tax Credit (FTC) scholarship program.

During the 2015A Special Session, the Legislature adopted provisions to the standard student attire and PLSA provisions of SB 672 in the 2015-2016 General Appropriations Act (GAA) and the 2015-2016 GAA implementing bill, respectively, for only the 2015-2016 fiscal year; therefore, the policies will expire on July 1, 2016, and the text of affected sections of law will revert back to text in existence on June 30, 2015, unless the Legislature acts to codify policy provisions beyond the 2015-2016 fiscal year. SB 672 saves the standard student attire provisions from repeal and retains the PLSA program changes by reenacting modified provisions.

The bill takes effect July 1, 2016.

## II. Present Situation:

The present situation for the relevant portions of the bill is discussed in the Effect of Proposed Changes Section of this bill analysis.

## III. Effect of Proposed Changes:

SB 672 creates the Florida Postsecondary Comprehensive Transition Program (CTP); codifies and amends the Florida Personal Learning Scholarship Accounts Program (PLSA); codifies and amends the Florida Tax Credit Scholarship Program (FTC); and codifies and amends standard student attire legislation.

### **Florida Postsecondary Comprehensive Transition Program (FPCTP)**

#### *Present Situation*

Both federal and state laws address postsecondary options for students with disabilities.

#### *The Higher Education Opportunity Act of 2008*

The Higher Education Opportunity Act of 2008 amended and extended the Higher Education Act of 1965 by adding new provisions including, but not limited to, supporting programs that provide students with disabilities with a quality higher education.<sup>1</sup> The new provisions established:

- Comprehensive transition and postsecondary (CTP) programs for students with intellectual disabilities;
- Transition programs for students with intellectual disabilities (TPSID) grants to fund programs that promote the successful transition of students with intellectual disabilities into higher education; and
- National coordination of CTP programs for students with intellectual disabilities.<sup>2</sup>

A student with an intellectual disability means a student:

- “With a cognitive impairment, characterized by significant limitations in:
  - Intellectual and cognitive functioning; and
  - Adaptive behavior as expressed in conceptual, social, and practical adaptive skills; and

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<sup>1</sup> 20 U.S.C. s. 1140 et. seq.; Pub. L. No. 110-315, 122 Stat. 3361 (Aug. 14, 2008).

<sup>2</sup> *Id.*

- Who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.”<sup>3</sup>

### ***Comprehensive Transition and Postsecondary (CTP) Program***

CTP program means a degree, certificate, or nondegree program that meets each of the following:<sup>4</sup>

- Is offered by an institution of higher education (IHE);
- Is delivered to students physically attending the IHE;<sup>5</sup>
- Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment;
- Includes an advising and curriculum structure;
- Requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible; and
- Requires students with intellectual disabilities to participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities with nondisabled peers:
  - Regular enrollment in credit-bearing courses offered by the institution.
  - Auditing or participating in courses offered by the institution for which the student does not receive regular academic credit.
  - Enrollment in noncredit-bearing, nondegree courses.
  - Participation in internships or work-based training.

### **Application for Federal Approval**

To have a CTP program that is eligible to participate in the federal student aid programs, an institution must submit an updated *Electronic Application for Approval to Participate in the Title IV Federal Student Aid Programs (E-App)* to the United States Department of Education (USDOE).<sup>6</sup> The institution also must submit to the USDOE, a copy of the letter or notice sent to the institution’s accrediting agency informing the agency of the institution’s CTP program.<sup>7</sup>

Thirty-nine institutions in 16 states offer CTP programs that are approved to participate in federal student aid programs.<sup>8</sup> Southeastern University located in Lakeland, Florida, previously offered a CTP program that received approval for participation in federal student aid programs,<sup>9</sup>

<sup>3</sup> 20 U.S.C. s. 1140(2).

<sup>4</sup> 20 U.S.C. s. 1140(1); 34 C.F.R. s. 231(a).

<sup>5</sup> 34 C.F.R. s. 668.231(a)(2).

<sup>6</sup> Email, Office of Program Policy Analysis and Government Accountability (Oct. 10, 2014), on file with the Committee on Higher Education staff; 34 C.F.R. s. 668.232.

<sup>7</sup> 34 C.F.R. s. 668.232(e). Think College, as the National Coordinating Center, is working with the United States Congress regarding a specialized accreditation for programs for students with disabilities. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2743\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf), at 7 of 29.

<sup>8</sup> Federal Student Aid, U.S. Department of Education, *Students with Intellectual Disabilities May Be Able to Get Certain Types of Federal Student Aid*, <https://studentaid.ed.gov/eligibility/intellectual-disabilities> (last visited Nov. 12, 2015).

<sup>9</sup> *Id.* “To be an eligible CTP Program, an institution must participate in the Federal student aid programs and offer an approved CTP program, as provided in 34 CFR 668.231 and 34 CFR 668.232 of the Student Assistance General Provisions

but does not currently offer the CTP program.<sup>10</sup> Currently, Florida Panhandle Technical College located in Chipley, Florida, is the only institution in the state that has received federal approval to participate in federal student aid programs for the college's Project Independence program.<sup>11</sup>

### **Federal Student Aid for Students in Federally-Approved CTP Programs**

A student with an intellectual disability is authorized to receive federal financial aid from Federal Pell Grant, Federal Supplemental Educational Opportunity Grant and Federal Work-Study programs if the student:<sup>12</sup>

- Is enrolled or accepted for enrollment in a CTP program for students with intellectual disabilities at an IHE that participates in the federal student aid programs;
- Maintains satisfactory academic progress, as determined by the institution;<sup>13</sup> and
- Meets the basic federal student aid eligibility requirements, except that the student is not required to have a high school diploma or General Educational Development (GED) and is not required to pursue a degree or certificate.

The student must provide documentation establishing that the student has an intellectual disability.<sup>14</sup>

### ***National Coordination***

The Higher Education Opportunity Act of 2008 established a National Center for Information and Technical Support for Postsecondary Students with Disabilities (National Center).<sup>15</sup> The National Center is responsible for:<sup>16</sup>

- Providing assistance to students and families and institutions of higher education.
- Building, maintaining, and updating a database of disability support services information.
- Working with organizations and individuals with proven expertise to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education.
- Reporting to the United States Secretary of Education an analysis of the condition of postsecondary success for students with disabilities.

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regulations.” U.S. Department of Education, *Title IV Eligibility for an Institution's Comprehensive Transition and Postsecondary Program for Students with Intellectual Disabilities* (June 6, 2011),

<http://www.ifap.ed.gov/eannouncements/060611TitleIVEligInstitComprehensiveTransition.html> (last visited Nov. 12, 2015).

<sup>10</sup> Telephone interview with Office of Program Policy Analysis and Government Accountability staff (Feb. 5, 2015).

<sup>11</sup> Emails, Office of Program Policy Analysis and Government Accountability (May 28, 2015 and Nov. 4, 2015), on file with the Committee on Higher Education staff.

<sup>12</sup> Federal Student Aid, U.S. Department of Education, *Students with Intellectual Disabilities May Be Able to Get Certain Types of Federal Student Aid*, <https://studentaid.ed.gov/eligibility/intellectual-disabilities> (last visited Nov. 12, 2015); see also 34 C.F.R. ss. 668.233 and 668.32.

<sup>13</sup> An institution is responsible for publishing the institution's standards for students enrolled in its comprehensive transition and postsecondary (CTP) program. 34 C.F.R. s. 668.233(a)(3).

<sup>14</sup> 34 C.F.R. s. 668.233(c).

<sup>15</sup> 20 U.S.C. s. 1140q(a).

<sup>16</sup> 20 U.S.C. s. 1140q(a)(4).

The Higher Education Opportunity Act of 2008 also established a national coordinating center for institutions of higher education that offer inclusive CTP programs for students with intellectual disabilities, including institutions participating in TPSID grants.<sup>17</sup>

In 2010, Think College was selected as the National Coordinating Center by the USDOE to provide support, coordination, training, and evaluation services to 27 TPSID grantees and other programs for students with intellectual disabilities around the nation.<sup>18</sup> Think College is a project of the Institute for Community Inclusion at the University of Massachusetts, Boston.<sup>19</sup>

As an alternative to pursuing a traditional postsecondary education program, a student with a disability in Florida may choose to enroll in a non-traditional postsecondary program for students with disabilities. Currently, 19 such non-traditional postsecondary programs are available to students with developmental disabilities<sup>20</sup> in Florida.<sup>21</sup> To enroll in such programs, students with developmental disabilities are not required to meet the institutions' admission criteria with the exception of Nova Southeastern University that requires students to be admitted into the university.<sup>22</sup> Program components include auditing postsecondary courses, enrolling in vocational courses, and participating in campus life and job training programs.<sup>23</sup>

None of the 19 programs award college credit or a college degree.<sup>24</sup> In some instances, students with developmental disabilities complete courses that may be applied toward a workforce

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<sup>17</sup> 20 U.S.C. s. 1140q(b) and i(b).

<sup>18</sup> Think College! *Think College National Coordinating Center: Annual Report on the Transition and Postsecondary Programs for Students with Intellectual Disabilities* (2010-2011), available at [http://www.thinkcollege.net/images/stories/FY11\\_Exec\\_Summary\\_NCC%20report\(2\).pdf](http://www.thinkcollege.net/images/stories/FY11_Exec_Summary_NCC%20report(2).pdf), at 2 of 4.

<sup>19</sup> Think College! *College Options for People with Intellectual Disabilities*, <http://www.thinkcollege.net/> (last visited Nov. 10, 2015).

<sup>20</sup> Developmental disability means “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” Section 393.063(9), F.S.

<sup>21</sup> Some of the 19 postsecondary programs (i.e., Project Student Access and Inclusion Together at Santa Fe College, Transitioning Owls at Florida Atlantic University, Project Panther LIFE at Florida International University, Project STING RAY at the University of South Florida, and Project ACCESS at the Florida Keys Community College) receive TPSID grant funds. Email, Office of Program Policy Analysis and Government Accountability (Feb. 5, 2015), on file with the Committee on Higher Education staff; Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2775.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf); see also Email, Office of Program Policy Analysis and Government Accountability (Nov. 4, 2015), on file with the Committee on Higher Education staff.

<sup>22</sup> Telephone interview with Office of Program Policy Analysis and Government Accountability staff (Feb. 5, 2015).

<sup>23</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2743\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf), at 15 of 29.

<sup>24</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2743\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf), at 13 of 29.

credential.<sup>25</sup> Three programs<sup>26</sup> offer certificates that are recognized by the institutions offering such certificates while six programs<sup>27</sup> offer certificates of completion.<sup>28</sup>

Additionally, according to research conducted by Florida's Office of Program Policy Analysis and Government Accountability, parents of students with developmental disabilities expressed concerns regarding a lack of information regarding postsecondary options for students with developmental disabilities.<sup>29</sup> Parents also emphasized the need for statewide coordination of postsecondary options and provision of student financial aid, including the ability for such students to apply Florida Prepaid College Plans, to offset program costs.<sup>30</sup>

### *Effect of Proposed Changes*

SB 672 establishes mechanisms for the approval of postsecondary education programs tailored to the needs of students with intellectual disabilities and statewide coordination of information. Specifically, the bill includes two key components:

- A process through which postsecondary institutions in Florida can voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- A Florida Center for Students with Unique Abilities (statewide coordinating center) for statewide coordination of information regarding programs and services for students with disabilities and their parents.

While the FPCTPs are designed to serve as a postsecondary education program option for students with intellectual disabilities, the statewide coordinating center is designed to serve a broader group of students with disabilities and their parents. To assist with the implementation of FPCTPs and statewide coordination of information, the bill establishes requirements for students to enroll in an FPCTP and receive state financial assistance in the form of an FPCTP Scholarship, requirements for institutions that offer FPCTPs, and duties and responsibilities for the statewide coordinating center to implement bill provisions.

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<sup>25</sup> *Id.*

<sup>26</sup> Florida State College at Jacksonville offers PSAV workforce certificates in certain fields (e.g., child care, automotive collision repair and refinishing, and welding); Florida Atlantic University offers certificates in employment, community access, and community living; and Pensacola State College offers industry certifications in addition to a certificate of completion.

<sup>27</sup> Certificates of completion are issued by Florida International University; Pensacola State College; Tallahassee Community College; University of Central Florida; University of North Florida; and University of South Florida, St. Petersburg.

<sup>28</sup> Email, Office of Program Policy Analysis and Government Accountability (Nov. 4, 2015), on file with the Committee on Higher Education staff.

<sup>29</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2743\\_2.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf), at 22 of 29.

<sup>30</sup> *Id.* Florida Prepaid College Board suggested clarifying in law that a qualified beneficiary may apply the benefits of an advance payment contract toward the program fees of a program designed for students with disabilities. Florida Prepaid College Board, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket\\_2775.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf), at 12 of 85.

FPCTPs are established for students with intellectual disabilities. The bill aligns the FPCTP approval requirements to the federal requirements for comprehensive transition and postsecondary (CTP) programs.

### *State FPCTP Approval*

To voluntarily offer an FPCTP, the president or executive director of an institution must submit an application and supporting documents to the statewide coordinating center, by a date established by the center. The bill specifies the application process, timelines, and components.

The application<sup>31</sup> for approval of a comprehensive transition program proposed by the institution must be approved by the institution's governing board. Additionally, the application must address the federal CTP<sup>32</sup> and state FPCTP requirements. Notwithstanding current processes for program approval,<sup>33</sup> the center director must, within 30 days after receipt of an application, submit recommendations regarding program approval or disapproval to the Chancellor of the State University System of Florida (chancellor), for programs proposed by the state universities, or the Commissioner of Education (commissioner), for programs proposed by Florida College System (FCS) institutions, technical centers, or Independent Colleges and Universities of Florida (ICUF) institutions. Receipt of approval for a proposed program means that the program is approved to operate as a Florida-approved CTP program.

If the chancellor or the commissioner, as applicable, does not take action on the center director's recommendation within 15 days after receipt of such recommendation, the proposed program is considered as an approved FPCTP by default. This expedited approval process likely will assist with timely implementation of FPCTPs by institutions. Additionally, students and their families will be able to plan ahead for the students' enrollment in the FPCTPs. To avoid delays in students' access to FPCTPs, an approved program must be implemented no later than the year immediately following the academic year during which the approval is granted. To renew an approved FPCTP, an institution must submit to the statewide coordinating center, an application for renewing the approved program, no later than 3 years following the year during which the approval was initially granted.

In addition to the federal requirements, to address the legislative purpose and intent, an eligible institution<sup>34</sup> must in its application for program approval:

- Identify a credential associated with the proposed program which is awarded to a student with an intellectual disability after the student completes the FPCTP.

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<sup>31</sup> SB 672 requires the statewide coordinating center to create an application, based on federal CTP requirements, for approval of proposed programs and renewal of approved programs.

<sup>32</sup> 20 U.S.C. s. 1140(1); 34 C.F.R. s. 668.232; and Email, Office of Program Policy Analysis and Government Accountability (Oct. 10, 2014), on file with the Committee on Higher Education staff.

<sup>33</sup> The current process for program approval is based on the criteria established by the Board of Governors of the State University System of Florida (BOG) or the State Board of Education (SBE), as applicable, for the review and approval of proposed new programs at state universities and Florida College System (FCS) institutions. Section 1004.03, F.S.; see Board of Governors Regulation 8.011.

<sup>34</sup> SB 672 defines eligible institution as a state university; a Florida College System (FCS) institution; a technical center; or an independent college or university that is located and chartered in Florida, is not-for-profit, is accredited by the Southern Association of Colleges and Schools (SACS), and eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

- Incorporate in program design, at a minimum, inclusive and successful experiential education practices relating to curricular, assessment, and advising structure and internship and employment opportunities. If the FPCTP is designed to be a college credit-bearing degree program, the eligible institution must be responsible for maintaining the rigor and effectiveness of the FPCTP at the same level as another comparable degree program offered by the institution.
- Include a plan for partnerships with businesses to promote experiential training and employment opportunities for students with intellectual disabilities.
- Include performance information, based on indicators identified by the statewide coordinating center, to measure satisfactory academic progress of students and performance of the program.
- Include any other requirement identified by the statewide coordinating center.
- Include a 5-year plan regarding enrollment and operational expectations for the proposed program.

The supporting documents must include documented evidence of receipt of federal approval for a comprehensive transition program offered by the institution which is determined as an eligible program for federal student aid programs, documented evidence of submission of an application for such federal approval, or documentation demonstrating the institution's governing board's commitment to submit an application within the next academic year for federal approval. The federal approval, if received, would allow students enrolled in FPCTPs to become eligible to receive federal student financial aid.<sup>35</sup>

### ***Student Requirements***

Students who wish to enroll in an FPCTP must meet specified criteria. Additionally, a state financial assistance scholarship is established to assist such students with program costs.

### **Eligibility to Enroll in an FPCTP**

To enroll in an FPCTP, the bill establishes student eligibility criteria, requiring that a student:

- Meet the federal definition of a student with an intellectual disability.<sup>36</sup>
- Physically attend<sup>37</sup> a state university, a FCS institution, a technical center, or an ICUF institution.
- Submit to the institution documentation establishing that the student has an intellectual disability<sup>38</sup> which may include an individualized plan for employment (IPE)<sup>39</sup> or a diagnosis by a licensed physician<sup>40</sup> or a licensed psychologist.<sup>41</sup>

<sup>35</sup> Federal Student Aid, U.S. Department of Education, *Students with Intellectual Disabilities May Be Able to Get Certain Types of Federal Student Aid*, <https://studentaid.ed.gov/eligibility/intellectual-disabilities> (last visited Nov. 12, 2015).

<sup>36</sup> 20 U.S.C. s. 1140(2).

<sup>37</sup> 34 C.F.R. s. 668.231(a)(2).

<sup>38</sup> 34 C.F.R. s. 668.233(c).

<sup>39</sup> The Division of Vocational Rehabilitation of the Department of Education makes determinations regarding whether an individual is eligible for vocational rehabilitation services. The goals, objectives, nature, and scope of vocational rehabilitation services must be included in the individualized plan for employment. Section 413.20(3), F.S.

<sup>40</sup> Chapters 458 and 459, F.S.

<sup>41</sup> Chapter 490, F.S.



### **Eligibility to Receive State Financial Assistance**

The FPCTP Scholarship is not need-based and is established for students for intellectual disabilities who:

- Meet the student eligibility requirements, as specified in the bill, and
- Enroll in an FPCTP.

The scholarship will likely help students offset costs associated with their enrollment in an FPCTP which may include, but not be limited to, tuition and program fees.

To maintain eligibility to receive the scholarship, a student must continue to meet the federal definition of a student with an intellectual disability, be enrolled in an FPCTP, and demonstrate satisfactory academic progress.<sup>42</sup> Each institution is responsible for determining satisfactory academic progress of students based on indicators identified by the statewide coordinating center, in collaboration with the Board of Governors for the State University System of Florida (BOG) and the State Board of Education (SBE).

### ***Institution Requirements***

In addition to fulfilling FPCTP application and documentation requirements to offer a Florida-approved CTP program, an institution must:

- Notify students and their parents about the eligibility requirements for enrolling in an FPCTP and receiving the FPCTP Scholarship.
- Make student eligibility determinations regarding program enrollment and scholarship receipt based on specified criteria.<sup>43</sup>
- Certify to the statewide coordinating center the amount of funds disbursed to each student, and must remit to the coordinating center any undisbursed advances by June 1 of each year to reconcile FPCTP Scholarship funds before the end of each fiscal year on June 30.
- Submit an annual report, by August 1 of each year, to the statewide coordinating center which, at a minimum, for the prior academic year, addresses information regarding recruitment, enrollment, and retention of students; completion rate of students enrolled in FPCTPs and related courses, as applicable; transition success of students as measured by employment rates and salary levels at 1 year and 5 years after completion; and any other performance indicator identified by the statewide coordinating center.

### ***Statewide Coordination***

To address the concerns of students with developmental disabilities and their parents regarding a lack of statewide coordination of postsecondary options for such students, a statewide coordinating center is established within the University of Central Florida. The center is named the Florida Center for Students with Unique Abilities (statewide coordinating center or center). The center is designed to serve as a one-stop shop for reliable and accurate information on programs and services for students with disabilities including, but not limited to, students with intellectual disabilities. This will likely reduce stress that parents express related to searching for

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<sup>42</sup> An institution is responsible for publishing the institution's standards for students enrolled in its comprehensive transition and postsecondary (CTP) program. 34 C.F.R. s. 668.233(a)(3).

<sup>43</sup> Similar to some state financial aid awards and tuition assistance grants, the bill requires institutions to determine eligibility of students to receive the FPCTP Scholarship based on specified criteria. Sections 1009.50(4)(c), 1009.505(4)(c), 1009.51(4)(c), and 1009.52(4)(c), F.S.

quality postsecondary options for their child and help parents plan ahead for a pathway to postsecondary education and employment opportunities for their child. Specifically, the center must:

- Disseminate information to students with disabilities and their parents regarding available education programs, services, resources, and employment opportunities for such students.
- Coordinate and facilitate the statewide implementation of FPCTPs including, but not limited to, collaborating with the National Coordinating Center (i.e., Think College) to develop guidelines for statewide implementation of comprehensive transition programs; consulting with the Higher Education Coordinating Council to identify meaningful credentials for FPCTPs and engage businesses and stakeholders to promote experiential training and employment opportunities for students with intellectual disabilities; and administering FPCTP Scholarship funds and FPCTP start-up and enhancement grants.
- Provide technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors, staff, and others, as applicable, at institutions by holding meetings, facilitating collaboration between institutions and parents, assisting institutions with CTP applications, and monitoring federal and state law regarding comprehensive transition programs and notifying the Legislature, the Governor, the BOG, the SBE of any change in relevant law.
- Provide, by October 1 of each year, to the Governor, the President of the Senate, the Speaker of the House of Representatives, the chancellor, and the commissioner, a summary of the status of statewide implementation of FPCTPs, the student and program performance indicators identified by the statewide coordinating center and performance information submitted by the institutions, the projected student enrollment in FPCTPs, and the education programs and services for students with intellectual disabilities which are available at the institutions.

### ***Rulemaking***

The bill requires the BOG and the SBE to consult with the statewide coordinating center to expeditiously adopt regulations and rules, as applicable, to allow the center to perform its responsibilities beginning in the 2016-2017 fiscal year.

### **Standard Student Attire**

#### ***Present Situation***

Generally, each district school board is authorized to adopt policies requiring students to wear uniforms or policies imposing other dress-related requirements, if a district school board finds that the policies are necessary for the safety and welfare of the student body or school personnel.<sup>44</sup>

#### ***Student Codes of Conduct***

A district school board has a duty to adopt student codes of conduct for elementary, middle, and high schools and distribute the appropriate codes to teachers, school personnel, students, and

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<sup>44</sup> Section 1001.43(1)(b), F.S. However, students are permitted to wear sunglasses, hats, or other sun-protective wear while outdoors during school hours. *Id.*

parents at the beginning of each school year.<sup>45</sup> Each code of conduct must contain an explanation of the responsibilities of students regarding appropriate dress and respect for themselves and others, and the role that appropriate dress has on an orderly learning environment.<sup>46</sup>

### ***Public School Uniform Policies***

Between the 2003-2004 and 2011-2012 school years, the implementation of mandatory school uniform policies in public schools has increased in the United States.<sup>47</sup> According to the National Center for Education Statistics, 20% of all public elementary schools and 12% of public secondary schools have adopted mandatory school uniform policies.<sup>48</sup> The purpose often cited for adopting school uniform policies in public schools is that it promotes a safe and supportive learning environment by reducing incidences of student truancy, disciplinary referrals, and absenteeism.<sup>49</sup>

According to the Florida Department of Education (DOE), a supportive school environment is one of five essential factors attributing to improvements in student performance in reading and mathematics.<sup>50</sup>

### ***Standard Student Attire Incentive Fund***

For the 2015-2016 fiscal year only, the Legislature appropriated funds for the Standard Student Attire Incentive Fund to award school districts that established and implemented districtwide, standard student attire policies, consistent with guidelines established by the DOE, for the purpose of promoting safe and supportive learning environments.<sup>51</sup>

<sup>45</sup> Section 1006.07(2), F.S.

<sup>46</sup> *Id.* The student code of conduct must include a dress code policy prohibiting a student, while on the grounds of a public school during a regular school day, from wearing clothing that exposes underwear or body parts in an indecent or vulgar manner or that disrupts the orderly learning environment. *Id.* Any student who violates the dress code policy is subject to specified disciplinary actions determined by the number of violations committed by the student. *Id.*

<sup>47</sup> The percentage of public schools reporting that they required students to wear uniforms increased from 13% to 19% during those school years. National Center for Education Statistics, Fast Facts, *School Uniforms*, <https://nces.ed.gov/fastfacts/display.asp?id=50> (last visited November 6, 2015).

<sup>48</sup> Public School Review, *Public School Uniforms: The Pros and Cons for Your Child*, <http://publicschoolreview.com/blog/public-school-uniforms-the-pros-and-cons-for-your-child> (last visited November 6, 2015). *See also*, National Center for Education Statistics, *Digest of Education Statistics*, Table 233.50. Percentage of public and private schools with various safety and security measures, by school level: 2003-04, 2007-08, and 2011-12, [https://nces.ed.gov/programs/digest/d14/tables/dt14\\_233.50.asp](https://nces.ed.gov/programs/digest/d14/tables/dt14_233.50.asp) (last visited November 6, 2015).

<sup>49</sup> During the 2015 Regular Legislative Session, the House of Representatives K-12 Subcommittee held a series of meetings to discuss the various factors affecting student performance and the important role that a safe and supportive learning environment has on academic performance. The staff of several Florida school districts testified that the implementation of mandatory school uniform policies, or standard student attire policies, is an effective measure in creating a safe and supportive learning environment which enables students to focus on academic performance. According to the House staff analysis, the following school districts had at least a districtwide, standard student attire policy in kindergarten through grade 8: Alachua, Bay, Madison, Osceola, and Polk. *See* Staff of the Florida House of Representatives, K-12 Subcommittee, *Legislative Bill Analysis for CS/HB 7043* (2015), available at <http://www.flsenate.gov/Session/Bill/2015/7043/Analyses/h7043c.EDC.PDF>.

<sup>50</sup> Florida Department of Education, *Safe and Supportive Environments*, presentation to the House of Representatives K-12 Subcommittee, February 4, 2015, available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2855&Session=2015&DocumentType=Meeting Packets&FileName=kts 2-4-15.pdf>.

<sup>51</sup> *See* Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F., which appropriated \$10 million in funds for the Standard Student Attire Incentive Fund. *See also*, Florida Department of Education, *District Certification for Standard Student Attire*

In accordance with the 2015 General Appropriations Act (GAA), each district superintendent had to certify, by September 1, 2015, to the Commissioner of Education (Commissioner) that the district school board implemented a districtwide, standard student attire policy.<sup>52</sup> The following school districts received incentive funds for the 2015-2016 school year:

Florida Department of Education 2015-2016 Student Attire Allocation<sup>53</sup>

District	K-8 Full-Time Equivalent Students	Allocation
Alachua	18,067.94	\$180,679
Bay	19,115.14	\$191,151
Miami-Dade	217,998.99	\$2,179,990
Flagler	8,651.34	\$86,513
Madison	1,658.47	\$16,585
Osceola	39,550.70	\$395,507
Polk	68,052.14	\$680,521
Taylor	2,022.98	\$20,230
Total	375,117.70	\$3,751,176

In addition, the 2015 GAA required the Commissioner to report the status of implementation of the incentive program to the Governor and the Legislature by December 1, 2015, and by June 30, 2016, to submit a final report summarizing the program and its effect on student learning.<sup>54</sup>

#### *Effect of Proposed Changes*

SB 672 essentially codifies proviso in the 2015 General Appropriations Act<sup>55</sup> by creating the Students Attired for Education (SAFE) Act, which:

- Awards a school district or charter school<sup>56</sup> a minimum of \$10 per student if it implements a districtwide or schoolwide, standard student attire policy that:

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*Incentive Fund—Due September 1, 2015*, Memorandum to School District Superintendents, July 24, 2015, available at <http://info.fldoe.org/docushare/dsweb/Get/Document-7400/dps-2015-111.pdf>. According to the 2015 General Appropriations Act (GAA), charter schools were eligible to participate and receive funds through their respective school districts. However, since the 2015 GAA required a qualifying policy to be implemented districtwide, a charter school located in a school district that chose not to implement such a policy was not eligible to independently certify and receive funds under the incentive program.

<sup>52</sup> Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F. Each school district's policy must be in effect no later than January 1, 2016. *Id.* Funds are allocated to eligible school districts through the Florida Department of Education's grant process. See Florida Department of Education, *District Certification for Standard Student Attire Incentive Fund—Due September 1, 2015*, Memorandum to School District Superintendents, July 24, 2015, available at <http://info.fldoe.org/docushare/dsweb/Get/Document-7400/dps-2015-111.pdf>.

<sup>53</sup> Email, Florida Department of Education, Division of Finance and Operations (November 12, 2015).

<sup>54</sup> Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

<sup>55</sup> *Id.*

<sup>56</sup> A charter school may also qualify by participating in its sponsor's qualifying standard student attire policy. Unlike the 2015 GAA, the bill expressly authorizes charter schools to implement schoolwide policies and independently receive incentive payments under the program.

- Applies to all students in kindergarten through grade 8, regardless of individual school grade configurations;
- Prohibits certain types or styles of clothing and requires solid-colored clothing and fabrics and short- or long-sleeved shirts with collars; and
- Allows reasonable accommodations based on a student's religion, disability, or medical condition.
- Requires each district school superintendent or charter school governing board to annually certify to the Commissioner of Education (Commissioner) that the school district or charter school has implemented a qualifying standard student attire policy.
- Requires the Commissioner to make payment of awards in the order in which certifications are received.<sup>57</sup>
- Provides immunity from civil liability to a district school board or a charter school governing board that implements a qualifying standard student attire policy.

### **Florida Personal Learning Scholarship Accounts Program (PLSA)**

#### *Present Situation*

The Florida Personal Learning Scholarship Accounts Program (PLSA) was established by the 2014 Legislature.<sup>58</sup> The PLSA program provides the option for a parent to better meet the individual needs of his or her eligible child.<sup>59</sup> A parent who applies for PLSA program participation is exercising his or her parental option to determine the appropriate placement or services that best meet the needs of his or her child.<sup>60</sup>

Funds are distributed to an eligible Scholarship Funding Organization (SFO) to establish PLSA scholarship accounts for eligible students.<sup>61</sup> Parents may use funds in the account to choose from a variety of approved items for the student, such as instructional materials, curriculum, specialized services by approved providers, enrollment in private school, assessment fees, and Florida Prepaid College Program contributions.<sup>62</sup>

A total of \$55.0 million (\$53.4 million for scholarships and \$1.6 million for program administration) was allocated for the 2015-2016 school year.<sup>63</sup>

#### ***Student Eligibility***

*Present Situation:* A parent may establish and maintain a PLSA account if his or her child is:

- A Florida resident;
- Eligible to enroll in kindergarten through grade 12 in a Florida public school;
- Has a disability; and

<sup>57</sup> On June 30 of each year, any remaining, undisbursed funds revert to the fund from which appropriated pursuant to s. 216.301, F.S.

<sup>58</sup> Section 6, ch. 2014-184 L.O.F.;

<sup>59</sup> Section 1002.385(1), F.S.

<sup>60</sup> Section 1002.385(11), F.S.

<sup>61</sup> Sections 1002.385(2)(e) & (13) F.S.

<sup>62</sup> Section 1002.385(5), F.S.

<sup>63</sup> Specific Appropriation 105, s. 2, ch. 2015-232 L.O.F.

- Is the subject of an Individual Education Plan (IEP) or has received a diagnosis of a disability from a licensed physician or psychologist.<sup>64</sup>

“Disability” means, for a student in kindergarten to grade 12:

- Autism, as defined in s. 393.063(3), F.S.;
- Cerebral palsy, as defined in s. 393.063(4), F.S.;
- Down syndrome, as defined in s. 393.063(13), F.S.;
- An intellectual disability, as defined in s. 393.063(21), F.S.;
- Prader-Willi syndrome, as defined in s. 393.063(25), F.S.;
- Spina bifida, as defined in s. 393.063(36), F.S.;
- for a student in kindergarten, being a high-risk child, as defined in s. 393.063(20)(a), F.S.; and
- Williams syndrome.<sup>65</sup>

Autism, as currently defined for program eligibility, means “a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavioral disorders with age and onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.”<sup>66</sup>

A student is not eligible for the PLSA program:

- While enrolled in a public school<sup>67</sup> or a school providing services to youth in the Department of Juvenile Justice program;<sup>68</sup>
- While receiving a scholarship in accordance with the Florida Tax Credit Scholarship Program or McKay Scholarship, or any other educational scholarship pursuant to chapter 1002,<sup>69</sup>
- If the student or student’s parent has accepted any payment, refund, or rebate from a provider of any services received while participating in the program;<sup>70</sup> or
- If the student’s participation in the program has been denied or revoked by the Commissioner of Education; or the student’s parent has forfeited participation in the program by failing to comply with the program’s requirements.<sup>71</sup>

During the 2015A Special Session, the PLSA program was amended to increase student eligibility by expanding the definition of autism (to allow students with all degrees of severity),

<sup>64</sup> Section 1002.385(3)(a), F.S.

<sup>65</sup> Section 1002.385(2)(d), F.S.

<sup>66</sup> Section 393.063(3), F.S. Thus, this definition of autism requires that a student exhibit severe and substantial deficits in certain areas. See, Email, Agency for Persons with Disabilities (Dec. 15, 2014).

<sup>67</sup> Being enrolled in a public school includes, but is not limited to, the Florida School for the Deaf and Blind; the Florida Virtual School; the College-Preparatory Boarding Academy; a developmental research school authorized under s.1002.33, s. 1002.331, or s. 1002.332; or a virtual education program authorized under s. 1002.45. Section 1002.385(4)(a)1, F.S.

<sup>68</sup> Section 1002.385(4)(a)2., F.S.

<sup>69</sup> Sections 1002.385(4)(a)3.-4., F.S. The requirements for the Florida Tax Credit Scholarship Program and John M. McKay Scholarships for Students With Disabilities Program can be found in ss. 1002.39, 1002.395, 1002.42, and 1002.421, F.S.

<sup>70</sup> Section 1002.385(4)(b)1., F.S.

<sup>71</sup> Sections 1002.385(4)(b)2.-3., F.S.

adding muscular dystrophy to the definition of disabilities, and including 3- and 4- year olds with a specified disability.<sup>72</sup>

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments. The bill also clarifies that 3- and 4- year olds who are high-risk are eligible for PLSA, and that a high-risk child who reaches six years of age must requalify under a different disability to continue program participation. The bill also reorganizes student requirements and responsibilities.

### ***Student Application and Award Process***

*Present Situation:* Parents must apply to an eligible SFO to participate in the program by February 1 before the school year in which the student wishes to participate.<sup>73</sup> Parents may also apply after the February 1 deadline by submitting a late-filed application.<sup>74</sup> SFOs also have the authority to set alternative dates for vacant, funded student slots.<sup>75</sup>

Scholarships are awarded on a first-come, first-served basis, based upon available funding.<sup>76</sup> Students that are placed on the wait list, or late-filing applicants may be allowed to participate in the program during the school year, subject to available funding.<sup>77</sup> The law does not specify how many years a student may remain on the wait-list.<sup>78</sup>

To avoid duplicate payments, PLSA scholarship funds may not be deposited into a student's account until after DOE compares the list of students participating in the program with the list of public school enrollment.<sup>79</sup>

The maximum scholarship amount is comprised of several factors and calculations.<sup>80</sup> However, the calculation for all students participating in the program is based on the matrix that assigns the student to support Level III of services.<sup>81</sup> The amount of payment can be adjusted upon request of the parent every three years to reevaluate the matrix.<sup>82</sup>

During the 2015A Special Session, the Legislature amended the program to enable all students to receive their scholarship award in the first quarter of the fiscal year. The Department of Financial Services (DFS) was required to provide DOE with all PLSA funds at the beginning the first quarter of the fiscal year. SFOs were required to confirm student eligibility via final verification, notify DOE, receive the PLSA funds from DOE, and deposit the funds in the student's

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<sup>72</sup> Section 5, ch. 2015-222, L.O.F.

<sup>73</sup> Section 1002.385(3)(b), F.S.

<sup>74</sup> Section 1002.385(12)(d), F.S.

<sup>75</sup> Section 1002.385(3)(b), F.S.

<sup>76</sup> Section 1002.385(12)(b), F.S.

<sup>77</sup> Section 1002.385(12)(d), F.S.

<sup>78</sup> Section 1002.385, F.S.

<sup>79</sup> Section 1002.385(9)(e), F.S. (i.e., the October survey).

<sup>80</sup> Section. 1002.385(13), F.S.

<sup>81</sup> Sections 1002.385(11) and (13)(a)3., F.S. The average scholarship amount for the 2014-2015 school year is approximately \$10,000 per student. See, Florida Department of Education, *Personal Learning Scholarship Account Program FAQs*, <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/plsa/plsa-faqs.stml#7166> (last visited February 6, 2015).

<sup>82</sup> Sections 1002.385(7)(c), (11) and (13)(a), F.S.

scholarship account.<sup>83</sup> The program was also amended to prioritize student enrollment in PLSA in the order of renewing students, wait-listed applicants (from the previous year), new applicants, and late-filed applicants.<sup>84</sup>

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments while further streamlining implementation to provide parents with more flexibility. The bill requires DFS to provide DOE the PLSA funds at the beginning the first quarter of the fiscal year. DOE must release the funds to the SFO after comparing the PLSA student list to the list of public school students and students participating in state scholarship programs. The SFOs would subsequently deposit the funds the student's scholarship account.<sup>85</sup> However, the bill provides the parent the option to choose to file a final verification document with the SFO to receive funds sooner. Upon confirmation by the SFO, DOE would release the funds to the SFO for deposit into the student's scholarship account.<sup>86</sup> Additionally, all 3- and 4- year olds would receive the full scholarship award at the beginning of the fiscal year.

The bill also clarifies that students are limited to being placed on the wait list to one year.

### ***Authorized Expenditures***

*Present Situation:* Funds from a PLSA account may be used for:<sup>87</sup>

- Instructional materials;<sup>88</sup>
- Curriculum;<sup>89</sup>
- Specialized services by approved providers selected by the parent;<sup>90</sup>
- Enrollment, tuition or fees in various authorized educational institutions;<sup>91</sup>
- Fees for assessments and industry certification examinations;<sup>92</sup>
- Contributions to the Florida Prepaid College Program account for the benefit of the eligible student;<sup>93</sup> and

<sup>83</sup> Sections 1002.385(9)(b), (12)(a), and (13)(b), F.S.

<sup>84</sup> Section 5, ch. 2015-222, L.O.F.

<sup>85</sup> This process is effectively 2014 law.

<sup>86</sup> This option is effectively the 2015A Special Session language, but written as an option for the parent as opposed to a requirement in law.

<sup>87</sup> Section 1002.385(5), F.S.

<sup>88</sup> Instructional materials also includes digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content. Section 1002.385(5)(a), F.S.

<sup>89</sup> Curriculum means a complete course of study for a particular content area or grade level, including any required supplemental materials. Section 1002.385(2)(b), F.S.

<sup>90</sup> *See s. 468.1125, F.S.* Services provided may include, but not limited to applied behavior analysis services and services provided by speech-language, pathologists, occupational therapists, physical therapists, and listening and spoken language specialists. Section 1002.385(5)(c), F.S. The Department of Health, the Agency for Persons with Disabilities, and DOE are required to work with an SFO for easy or automated access to lists of licensed providers of services to ensure efficient administration of the program. Section 1002.385(15), F.S.

<sup>91</sup> The various schools or programs include an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual program offered by a DOE-approved private online provider, the Florida Virtual School, or an approved online course. *See ss. 1002.43, 1002.45(2)(a), 1003.499, and 1004.0961, F.S.*

<sup>92</sup> Authorized assessments are nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments. Section 1002.385(5)(e), F.S.

<sup>93</sup> *See s. 1009.98, F.S., Stanley G. Tate Florida Prepaid College Program.*



- Contracted services provided by a public school or school district, including classes and extracurricular programs for the services specified in the IEP or additional services.<sup>94</sup>

During the 2015A Special Session, the Legislature amended the program to require program funds to be used to meet the individual educational needs of an eligible student. Tuition and part-time tutoring services were added as an authorized program expenditure. The Legislature also authorized 3- and 4- year olds with a statutorily defined disability to be eligible for PLSA, but prohibited a student from receiving VPK funding and PLSA funding at the same time.<sup>95</sup>

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments, and authorizes PLSA funds to be used for the additional uses:

- Training and the use of maintenance agreements for digital devices,
- Enrollment fees and tuition for a home education program and for a program offered by an eligible postsecondary educational institution,
- Florida College Savings Program,
- Fees for special education programs,
- Transition services by job coaches,
- Fees for the annual evaluation of education progress (for PLSA students in home education),
- For online instruction associated with curriculum, and
- Programs offered by VPK providers and school readiness providers.

### ***Term of the Program***

*Present Situation:* The PLSA program treats the ability of a student to receive scholarship funds, and the ability of the student to spend scholarship funds, separately.

The ability to receive program payments continues until a student:

- Fails to comply with the program requirements;
- Has funds revoked by the Commissioner of Education;
- Returns to or enrolls in a public school; or
- Graduates from high school or reaches 22 years of age, whichever occurs first.<sup>96</sup>

A student's PLSA account will be closed, and funds revert to the state, upon:

- The student's graduation from an eligible postsecondary institution; or
- After any period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary education institution.<sup>97</sup>

*Effect of Proposed Changes:* The bill revises both aspects of the program's term.

The ability to receive program payments continues until the:

- Parent does not renew program eligibility;

<sup>94</sup> A student who receives services under a contract is not considered to be enrolled in a public school for eligibility purposes. Section 1002.385(5)(g), F.S.

<sup>95</sup> See ss. 1002.385(2)(d)&(g), (4)(a)2, (5)(d), F.S.

<sup>96</sup> Section 1002.385(6), F.S.

<sup>97</sup> Section 1002.385(13)(c), F.S.

- SFO determines that the student is no longer eligible for program renewal;
- Commissioner of Education suspends or revokes program participation or use of funds;
- Student's parent has forfeited participation in the program;
- Student enrolls in a public school; or
- Student graduates from high school or attains 22 years of age, whichever occurs first.

A student's PLSA account will be closed, and funds revert to the state, upon:

- Revocation of program eligibility by the Commissioner for fraud or abuse; or
- After any period of 3 consecutive years after high school completion in which the student is not enrolled in an eligible postsecondary institution or program offered by the institution.

### ***Parent and Student Obligations***

*Present Situation:* Parents of students receiving a scholarship are responsible for signing an agreement with the SFO, procuring the services necessary to educate the student, and paying eligible expenses in excess of the amount of the PLSA account.<sup>98</sup>

A parent must annually submit a notarized, sworn compliance statement to the SFO which states that the parent will:

- Affirm that the student meets regular school student attendance requirements;<sup>99</sup>
- Use funds only for authorized purposes;
- Notify the school district that the student is participating in the program, if the parent chooses to enroll in a home education program;
- Affirm that the student takes all appropriate standardized assessments;
- Request participation in the program by the date provided by the SFO;
- Affirm that the student remains in good standing with the provider or school if those options are selected by the parent;
- Apply for admission of his or her child to a private school if this option is selected by the parent;
- Annually renewing participation in the program;
- Affirm that the parent will not transfer any college savings funds to another beneficiary;
- Affirm that the parent will not take possession of any funding contributed by the state; and
- Affirm that the parent will maintain a portfolio of records for two years to document student learning and requiring it to be available for inspection upon 15 days written notice from the district school superintendent.<sup>100</sup>

*Effect of Proposed Changes:* The bill specifies that the parental agreement and sworn, notarized compliance form are not only utilized for enrollment in the program, but are necessary to maintain program eligibility, including receiving and expending program payments.

<sup>98</sup> Section 1002.385(11), F.S.

<sup>99</sup> These requirements are a parochial, religious, or denominational school; a private school supported in whole or in part by tuition charges or by endowments or gifts; a home education program that meets the requirements of chapter 1002, F.S. See ss. 1002.385(11)(a)1., 1003.01(13), 1003.21 and 1003.24, F.S.

<sup>100</sup> Section 1002.385(11)(a), F.S. A parent who fails to comply with these requirements forfeits the PLSA account. Section 1002.385(11), F.S.

The bill revises the parent responsibilities by focusing the parental affirmations so that the parent affirms that:

- The student will meet regular school attendance requirements;
- Program funds will be used only for authorized purposes serving the student's educational needs;
- The parent will be responsible for the education of the student by affirming the student will take all required assessments; and
- The student will remain in good standing with the selected provider or school.

The bill further specifies parental duties.<sup>101</sup> The parent must:

- File an application for program file an application for initial program participation and annually renew program participation by specified deadlines;
- Notify the school district of the student's participate in the program, if the parent chooses to enroll the student in a home education program;
- Enroll the student with an eligible VPK or school readiness provider, if either option is selected by the parent;
- Procure the services necessary to educate the student;
- Be responsible for all eligible expenses in excess of the program award amount;
- Not transfer any prepaid college plan or savings plan funds to another beneficiary if PLSA funds have been contributed to such plan; and
- Not receive a payment, refund, or rebate from an approved provider of any services.

### ***School District Obligations***

*Present Situation:* If requested by a parent, a school district must complete a matrix that assigns a level of service to a student with a disability who does not have a matrix.<sup>102</sup> The school district is required to complete the matrix within 30 days after receiving notice of the request, and provide the parent with the matrix level within 10 days thereafter.<sup>103</sup> The DOE is responsible for notifying the parent and SFO of the amount of funds awarded within 10 days of receiving the matrix level from the district.<sup>104</sup> A school district may only change a matrix to correct a technical, typographical, or calculation error.<sup>105</sup> A school district is required to notify the parent of each eligible student that the matrix may be reevaluated every 3 years.<sup>106</sup>

*Effect of Proposed Changes:* The bill clarifies that if a parent requests a matrix of services that the school district must prepare an IEP first in order to populate the matrix of services document. The bill places the duty to notify the parent of the opportunity to have the matrix reevaluated on the SFO instead of the school district.

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<sup>101</sup> Some of the duties are currently part of the parental affidavit. Thus, the effect is that some parental responsibilities are not new; rather, they are just no longer required to be included in the parental affidavit.

<sup>102</sup> Sections 1002.385(7)(a), and (11), F.S.

<sup>103</sup> Section 1002.385(7), F.S.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.*

<sup>106</sup> Section 1002.385(7)(c), F.S.

### *Department of Education and Commissioner Obligations*

*Present Situation:* The DOE's responsibilities are to:

- Maintain a list of approved providers;
- Require eligible SFOs to verify eligible expenditures;
- Investigate written complaints of a program violation by a parent, private school or district;
- Require the SFO to provide quarterly reports regarding the program; and
- Compare the list of students participating in the program with the public school enrollment lists before each program payment to avoid duplicate payments.<sup>107</sup>

The Commissioner of Education (Commissioner):

- Is required to deny, suspend, or revoke a student's participation in the program or the use of program funds, if the student's health, safety, or welfare is in jeopardy or fraud is suspected;
- May deny, suspend, or revoke the use of program funds for material noncompliance with law and rules if the noncompliance is correctable within a reasonable amount of time; and
- Shall require compliance by a date certain for all nonmaterial failures to comply with program law, and deny, suspend or revoke program participation thereafter.<sup>108</sup>

In taking such action, the Commissioner may consider factors such as:

- Acts or omissions that led to a previous denial or revocation;
- Failure to reimburse the SFO for improperly received funds;
- Imposition of prior criminal sanctions;
- Imposition of civil fines, administrative fines, license revocation or suspension, program eligibility suspension, termination, or revocation related to an entity's management or operation; or
- Other types of criminal proceedings in which there was a finding of guilt or no contest to offenses involving fraud, deceit, dishonesty, or moral turpitude.<sup>109</sup>

During the 2015A Special Session, the Legislature amended the program to require DOE to compare the list of students participating in the program to the list of students participating in school choice scholarship programs throughout the school year. The Legislature also provided the Commissioner with broad authority to deny, suspend, or revoke program participation or use of program funds by the student, or participation or eligibility of an SFO, private school, postsecondary educational institution, approved provider, or other appropriate party. The Commissioner was provided discretion to determine the length of, and conditions for lifting, suspensions or revocations. The length of a suspension or revocation is limited to 5 years, except that it was limited to 10 years for fraud. The Commissioner was authorized to recover unexpended program funds or withhold payments of program funds to recover the unauthorized use of program funds.

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments, and further specifies DOE's duties and provides the Commissioner with greater discretion concerning the program suspension and revocation.

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<sup>107</sup> Section 1002.385(9), F.S.

<sup>108</sup> Section 1002.385(10)(a), F.S.

<sup>109</sup> Section 1002.385(10)(b), F.S.

The bill expands the following DOE duties to:

- Require DOE to identify on its website a list of approved providers, eligible postsecondary educational institutions, eligible private schools, and organizations. DOE may identify or provide links to lists of other approved providers;
- Expand DOE's ability to investigate program complaints by authorizing DOE to investigate students, public schools, SFOs, providers, and other appropriate parties;
- Expand the information DOE must require SFOs to provide in quarterly reports, to include the demographics and disability category of program participants, the matrix level of services, the program award amount per student, and the total expenditures by purpose;
- Codifies DOE's requirement to compare the list of the students participating in the program to the list of students participating in school choice scholarship programs before the award is provided, as well as throughout the school year, and adds to that requirement the students participating in VPK.

The bill codifies the Commissioner's duties and streamlines the Commissioner's duties to:

- Suspend or revoke program participation or the use of program funds by the student or participation or eligibility of an SFO, eligible private school, eligible postsecondary educational institution, approved provider, or other party for a violation of program law; and
- Authorize the Commissioner to consider a party's previous suspension or revocation if a state or federal program, and the failure of the party to reimburse government funds improperly received.

### ***Scholarship-Funding Organization Obligations***

*Present Situation:* An eligible scholarship funding organization (SFO), in administering the program:<sup>110</sup>

- Establishes PLSA accounts for eligible students;
- Receives applications;
- Confirms initial or continuing participation;
- Determines student eligibility;
- Awards scholarships on a first-come, first-serve basis;
- Provides a process for students on the wait list, or late-filing applicants, to participate in the program;
- Establishes PLSA accounts for each eligible student;
- Verifies program expenditures;
- Returns unused funds to the state when the student is no longer eligible to participate in the program;
- Notifies DOE of applicants by March 1 before the subsequent school year starts;
- Provides DOE with information on the student when the application is received, in order to enable DOE to report the student for funding;<sup>111</sup>

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<sup>110</sup> Section 1002.385(12), F.S.

<sup>111</sup> *Id.*

- Pays benefits by establishing a system of electronic funds transfer, including, but not limited to debit cards, electronic payment cards, or any other means of electronic payment that DOE determines to be commercially viable or cost-effective;<sup>112</sup> and
- May charge students an application fee, but is required to return the application fee if the student's application is denied or the student is placed on the wait list.<sup>113</sup>

During the 2015A Special Session, the Legislature specified student priorities for SFO scholarship awards and required SFOs to collect documentation of final conditions of eligibility from parents in order to receive the scholarship award.

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments; however, the bill revises the final condition of eligibility documentation to allow parents the option to affirmatively seek to receive scholarship funds before DOE conducts the public school survey. The bill also:

- Clarifies the priority of student applications;
- Requires SFOs to notify DOE of violations of program laws;
- Requires SFOs to maintain a record of interest that accrues in each student's scholarship account;
- Requires SFOs to notify parents about the availability of, and requirements associated with, requesting an initial IEP or IEP reevaluation every year;
- Requires SFOs to document each student's eligibility before granting a scholarship;
- Prohibits SFOs from charging students an application fee; and
- Prohibits SFOs from retaining a student on its wait list for more than one year.

### ***Auditor General Duties***

*Current Situation:* The Auditor General must conduct an annual financial and operational audit related to the program.<sup>114</sup> As a part of this audit, the Auditor General must verify, at a minimum, the total amount of students served and eligibility of reimbursements made by each SFO and transmit that information to the department.<sup>115</sup> The department will be notified of any SFO that fails to comply with a request for information.<sup>116</sup>

*Effect of Proposed Changes:* The bill removes the requirement for an annual financial audit, as it is duplicative with the more comprehensive annual operational audit. The bill also requires the Auditor General to provide the Commissioner with a copy of each such annual operational audit within 10 days after the audit is finalized.

### **Florida Tax Credit Scholarship Program**

SB 672 modifies provisions of the Florida Tax Credit scholarship program (FTC). The purpose of the FTC program is to enable taxpayers to make private, voluntary contributions to SFOs for children of families that have limited financial resources so the parents can choose to send their

<sup>112</sup> Section 1002.385(13)(d), F.S.

<sup>113</sup> Specific Appropriation 105, s. 2, Ch. 2015-232, L.O.F.

<sup>114</sup> Section 1002.385(14), F.S.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

child to an eligible private school in order to achieve a greater level of excellence in their education and improve the quality of education in Florida.<sup>117</sup>

### ***Application Fee***

*Present Situation:* SFOs are authorized to charge students with an application fee to apply to FTC.<sup>118</sup> However, if an SFO charges an application fee, the fee must be immediately refunded to the person that paid the fee if the student is not enrolled in a participating school within 12 months.<sup>119</sup>

*Effect of Proposed Changes:* The bill prohibits a SFO from charging an application fee.

### ***SFO Surety Bond***

*Present Situation:* SFOs are required to provide a surety bond or letter of credit to participate in FTC.<sup>120</sup>

During the 2015A Special Session, the Legislature limited the entities that may file a claims against a SFO's surety bond.<sup>121</sup>

*Effect of Proposed Changes:* The bill codifies the 2015A Special Session amendments regarding who may file a claim against a SFO's surety bond. The bill also provides that the purpose of the surety bond is to secure the faithful performance of the obligations of SFOs in accordance with FTC requirements.

### ***SFOs Disapproved for FTC Participation***

*Present Situation:* SFOs that are disapproved for FTC must revert all remaining funds to the Department of Revenue for redistribution to other SFOs.<sup>122</sup>

*Effect of Proposed Changes:* The bill removes the Department of Revenue as the funding pass-through, so that SFOs that are disapproved for FTC transfer all remaining funds directly to other SFOs. Requires the funds to be used to provide scholarships for eligible students. The bill also requires the funds to be deposited in the SFOs scholarship account and to be separately disclosed in the annual financial audit.

### ***Contribution Carry Forward***

*Present Situation:* SFOs are required to expend at least 75% of net eligible contributions on scholarships.<sup>123</sup> No more than 25% of such contributions may be carried forward to the following

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<sup>117</sup> See, s. 1002.395(1)(b), F.S.

<sup>118</sup> Section 1002.395(6)(j)1., F.S.

<sup>119</sup> *Id.*

<sup>120</sup> See ss. 1002.395(16)(a)10. and (b), F.S.

<sup>121</sup> *Id.*

<sup>122</sup> Section 1002.395(16)(f), F.S.

<sup>123</sup> Section 1002.395(6)(j)2., F.S.

fiscal year.<sup>124</sup> Net eligible contributions remaining at the end of the fiscal year that are in excess of the 25% that may be carried forward must be deposited in the state's General Revenue Fund.<sup>125</sup>

*Effect of Proposed Changes:* The bill removes the requirement that excess contributions be deposited in the General Revenue Fund, and instead requires that such funds be transferred to other SFOs. The funds must be deposited into the SFOs scholarship account and used for scholarships for eligible students. The SFO must separately disclose such funds in its annual audit.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. Other Constitutional Issues:

Only one state school choice scholarship program - the Opportunity Scholarship Program - has been successfully challenged on constitutional adequacy and no aid grounds.<sup>126</sup> Aside from the Opportunity Scholarship Program, no other Florida school choice scholarship program has been declared unconstitutional. The general constitutional challenges have been brought under the state constitutional provisions governing the adequacy of the public education system<sup>127</sup> and the no aid provision.<sup>128</sup>

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<sup>124</sup> *Id.*

<sup>125</sup> *Id.*

<sup>126</sup> *See* Bush v. Holmes, 886 So.2d 340 (Fla. 1st DCA 2004), affirmed on other grounds, 919 So.2d 392 (Fla. 2006).

<sup>127</sup> Article IX, s. 1, Fla. Const., providing that "[a]dequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people require."

<sup>128</sup> Article I, s. 3., Fla. Const., providing that "[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution."



**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

SB 672 authorizes a sum of \$8 million in recurring funds from the General Revenue Fund for the administration of the Florida Postsecondary Comprehensive Transition Program (FPCTP). Specifically, the bill authorizes a sum of:

- \$1.5 million to the Florida Center for Students with Unique Abilities for costs solely associated with the center serving as the statewide coordinating center for the program.
- \$3 million for start-up and enhancement grants to eligible state universities; Florida College System (FCS) institutions; technical centers; and independent colleges or universities that are located and chartered in Florida, are not-for-profit, is accredited by the Southern Association of Colleges and Schools (SACS), and eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.
- \$3.5 million for FPCTP Scholarship awards for students with intellectual disabilities who meet the eligibility requirements to receive the scholarship to offset costs associated with enrollment in an FPCTP which may include, but not be limited to, tuition and program fees.

The bill includes an appropriation in the amount of \$14 million in recurring funds from the General Revenue Fund to the Department of Education for the Standard Student Attire Incentive Program.

The bill appropriates \$71.2 million in recurring funds from the General Revenue Fund for scholarship awards under PLSA. The bill appropriates \$2.136 million in recurring funds from the General Revenue Fund for administrative expenses for each SFO's management and distribution of scholarship awards under PLSA, not to exceed 3 % of the amount of each scholarship award.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.43, 1002.33, 1002.385, 1002.395, 1009.971, 1009.98, and 1009.981.

This bill creates the following sections of the Florida Statutes: 1004.6495 and 1011.78.

This bill creates an undesignated section of the Florida law.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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