

**SB 7028** by **MS**; (Similar to CS/H 0035) Educational Opportunities for Veterans

**CS/SB 642** by **BI, Benacquisto (CO-INTRODUCERS) Sobel**; (Similar to H 0935) Individuals with Disabilities

**CS/SB 644** by **BI, Benacquisto**; (Similar to H 0937) Florida ABLE Program Trust Fund/State Board of Administration

**CS/SB 152** by **ED, Ring**; (Similar to H 0123) Disability Awareness

**SB 7030** by **HE**; Postsecondary Education for Students With Disabilities

**SB 602** by **Gaetz (CO-INTRODUCERS) Galvano**; (Compare to H 0723) Students With Disabilities

979048	A	S	RCS	AED, Gaetz	Delete L.77 - 111:	03/06 02:54 PM
665824	A	S	RCS	AED, Gaetz	Delete L.206 - 263:	03/06 02:54 PM
554428	A	S	RCS	AED, Gaetz	Delete L.427 - 521:	03/06 02:54 PM
631318	A	S	RCS	AED, Gaetz	Delete L.693 - 695:	03/06 02:54 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**APPROPRIATIONS SUBCOMMITTEE ON EDUCATION**

**Senator Gaetz, Chair**  
**Senator Montford, Vice Chair**

**MEETING DATE:** Wednesday, March 4, 2015  
**TIME:** 10:00 a.m.—12:00 noon  
**PLACE:** Pat Thomas Committee Room, 412 Knott Building

**MEMBERS:** Senator Gaetz, Chair; Senator Montford, Vice Chair; Senators Bullard, Galvano, Legg, Ring, Simmons, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Follow-Up - Reporting of Student Loan Default Rates for Institutions License by the Commission for Independent Education (Clarification)		Discussed
2	<b>SB 7028</b> Military and Veterans Affairs, Space, and Domestic Security (Similar CS/H 35)	Educational Opportunities for Veterans; Revising criteria for eligibility for out-of-state fee waivers at state universities, Florida College System institutions, and specified career centers; removing a provision regarding the applicability of waivers to required credit hours for a student's degree or certificate program, etc.  AED AP	Favorable Yeas 7 Nays 0
3	<b>CS/SB 642</b> Banking and Insurance / Benacquisto (Similar H 935, Compare H 937, H 939, Link CS/S 644, CS/S 646)	Individuals with Disabilities; Creating the "Florida Achieving a Better Life Experience (ABLE) Act"; requiring the Florida Prepaid College Board to establish a direct-support organization known as "Florida ABLE, Inc."; authorizing the organization to use certain services, property, and facilities of the Florida Prepaid College Board; requiring the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, and the Department of Education to assist, cooperate, and coordinate with the organization in the provision of public information and outreach for the program, etc.  BI      02/17/2015 Fav/CS AED AP	Favorable Yeas 7 Nays 0
4	<b>CS/SB 644</b> Banking and Insurance / Benacquisto (Similar H 937, Compare H 935, Link CS/S 642)	Florida ABLE Program Trust Fund/State Board of Administration; Creating the Florida ABLE Program Trust Fund within the State Board of Administration; authorizing sources of funds; specifying the purpose of the trust fund and authorized uses of the assets; providing for future review and termination or re-creation of the trust fund; providing a directive to the Division of Law Revision and Information, etc.  BI      02/17/2015 Fav/CS AED AP	Favorable Yeas 7 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**


Appropriations Subcommittee on Education

Wednesday, March 4, 2015, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>CS/SB 152</b> Education Pre-K - 12 / Ring (Similar H 123)	Disability Awareness; Requiring, rather than authorizing, each district school board to provide disability history and awareness instruction in all K-12 public schools beginning in a specified school year; requiring each public school to establish a disability history and awareness advisory council, etc.  ED 02/18/2015 Fav/CS AED FP	Favorable Yeas 7 Nays 0
6	<b>SB 7030</b> Higher Education	Postsecondary Education for Students With Disabilities; Creating the "Florida Postsecondary Comprehensive Transition Program Act"; establishing eligibility requirements for enrollment in the Florida Postsecondary Comprehensive Transition Program; establishing the Florida Center for Students with Unique Abilities; establishing a Florida Postsecondary Comprehensive Transition Program Scholarship for certain qualified students, etc.  AED AP	Favorable Yeas 7 Nays 0
7	<b>SB 602</b> Gaetz (Compare H 723)	Students With Disabilities; Revising scholarship application deadlines and guidelines; requiring authorized program funds to support the student's educational needs; providing future repeal of provisions pertaining to an implementation schedule of notification and eligibility timelines; authorizing a prepaid college plan to be purchased, accounted for, used, and terminated under certain circumstances, etc.  ED 02/18/2015 Favorable AED AP	Fav/CS Yeas 7 Nays 0
8	Discussion of Digital Classroom Budget Requirements		Discussed
<b>Workshop</b> - Discussion and testimony only on the following (no vote to be taken):			
9	Education Budget Development and Related Issues		Discussed
Other Related Meeting Documents			

## MEMORANDUM

**To:** The Honorable Don Gaetz, Chairman, Appropriations Subcommittee on Education

**Prepared by:** George Levesque, General Counsel   
Michael Maida, Attorney

**Date:** March 3, 2015

**Re:** Ability of Education Providers to Provide Cohort Default Rates to the Legislature

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### I. Comments to the Subcommittee

Diane Jones, a representative of Career Education Corporation, made several assertions concerning the ability to report student cohort default rates in her presentation before the Senate Appropriations Subcommittee on Education, made on February 11, 2015. Specifically, she represented:<sup>1</sup>

1. *On whether Career Education Corporation and other similar institutions could disaggregate cohort default rate data:* “It would be against the law. The gainful employment regulations dictate how we must disclose information to students, what we must disclose, and in fact the Department of Ed[ucation] provides us with a prepopulated form. It would be against the law for us to calculate, because if we calculate, we have to report an institutional-based cohort default rate, it is based on the OPEID institution, so we would be violating federal law.
2. *On whether federal law prevented Career Education Corporation and other similar institutions from providing the disaggregated information to the legislature only:* “We would violate the requirement that we report all of our data by the OPEID. We are not allowed to calculate a single rate that we do not report publicly, and we are not allowed to report publicly other than at the OPEID level. So, you know, if there was a regulatory change at the Department of Ed[ucation], we could do that, but right now, the regulatory paradigm is such that we cannot disaggregate below the OPEID level.”
3. *Clarifying, if Career Education Corporation and other similar institutions otherwise reported all information properly within the boundaries of federal law, but privately provided the legislature with the disaggregated data, they would still violate federal law:* “It would violate federal regulations. The law is not that specific, but the Department of Education has chosen to regulate on the law, and in their regulations they have created

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<sup>1</sup> A recording of the meeting is available online at <http://thefloridachannel.org/videos/21115-senate-appropriations-subcommittee-education/>. Her presentation regarding default rates begins around 1:18:00, and the material quoted above begins at roughly 1:25:00.

this paradigm. And so, yes, we would potentially lose our ability to operate, to participate in the Title IV program.”

As authority for her assertions, Ms. Jones cited 34 C.F.R. § 668, Student Assistance General Provisions promulgated by the U.S. Department of Education (“USDOE”). Subpart N contains the provisions governing Cohort Default Rates, *see* 34 C.F.R. §§ 668.200 et seq, which establishes the methods with which the USDOE calculates these rates and the consequences if they surpass a certain percentage.

The cohort default rate of an institution is a measure the USDOE calculates to determine that institution’s eligibility to participate in various Title IV, HEA programs.<sup>2</sup> The ability of institutions of higher education to participate in various federal loan programs is jeopardized if the default rate of their borrowing students exceeds statutory thresholds. *See, e.g.*, 20 U.S.C. §§ 1070a, 1085, and 1087bb. For the reasons below, I believe Ms. Jones’ statements that federal regulations prohibit disclosing branch or state-specific data to a Senate appropriations subcommittee are unfounded.

## **II. Federal Law Does Not Forbid Providing Cohort Default Rates to the Legislature**

Ms. Jones asserted that an institution’s branch was prohibited from calculating its own cohort default rate. These assertions are wholly unsupported by federal statutes or the regulations promulgated under them. Although the cohort default rate for a given institution is issued OPEID-wide and calculated by the USDOE to determine Title IV, HEA program eligibility, no statute or regulation specifically prohibits an individual branch from calculating its own cohort default rate and providing it to the legislature. Ms. Jones appears to err in asserting that the calculated cohort default rates under 34 C.F.R. § 668.202 used in determining federal student aid eligibility comprise the only information that may be provided to the legislature. While she was correct in suggesting only the USDOE could issue *official* cohort default rates used under federal programs, Ms. Jones appears to interpret such requirements as a prohibition on alternative calculations and a ceiling for providing related information—that Career Education Corporation and other similar institutions can provide no more information than what is provided for under federal regulations. Nothing in federal statutes or regulations expressly requires such an interpretation, nor do these laws naturally lend themselves to these interpretations. Accordingly, nothing in federal statutes or regulations prevents an institution from providing additional cohort default rate data to the Senate.<sup>3</sup> Regardless, Ms. Jones herself stated that “[e]very year when we get our cohort default rates from the Department, they’re

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<sup>2</sup> Under 34 C.F.R. § 668.1, Title IV, HEA Programs include the Federal Pell Grant Program, The Federal Stafford Loan Program, the Federal PLUS Program, and the William D. Ford Federal Direct Loan Program, among others.

<sup>3</sup> While student records containing personally identifiable information are subject to protections under federal law, *see* 20 U.S.C.A. § 1232g, there has been no indication that the information requested would include any protected personally identifiable information.

wrong,”<sup>4</sup> suggesting that institutions are calculating their own rates for the purposes of challenging USDOE’s calculations.

### III. Conclusion

This office was unable to identify a federal regulation that would prohibit Career Education Corporation or other similar institutions from disclosing cohort default rates for their branch institutions. Ultimately, the Florida legislature is armed with constitutional and statutory authority and tools to obtain information necessary to fulfill its lawmaking duties. *See* Art. III, § 5, Fla. Const.<sup>5</sup> and § 11.143, Fla. Stat.<sup>6</sup>

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<sup>4</sup> In response to a question posed by the committee regarding whether the USDOE’s calculated default rates were accurate, Ms. Jones stated “[e]very year when we get our cohort default rates from the Department, they’re wrong. We appeal them, and we go through a process.”

<sup>5</sup> Providing that “[e]ach house, when in session, may compel attendance of witnesses and production of documents and other evidence upon any matter under investigation before it or any of its committees.... [s]uch powers... may be conferred by law upon committees when the legislature is not in session.”

<sup>6</sup> Providing, among other things, the power of committees to “compel by subpoena duces tecum the production of any books, letters, or other documentary evidence, *including confidential information*, it desires to examine in reference to any matter before it.” § 11.143(3)(b), Fla. Stat. (emphasis added).

**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.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

BILL: SB 7028

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Educational Opportunities for Veterans

DATE: March 2, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Ryon	Ryon		<b>Submitted as Committee Bill</b>
1.	Sikes	Elwell	AED	<b>Favorable</b>
2.			AP	
3.				

**I. Summary:**

SB 7028 amends the Congressman C.W. “Bill” Young Veteran Tuition Waiver Program to allow additional persons to be eligible for the out-of-state tuition fee waiver currently afforded to honorably discharged veterans residing in Florida and enrolled in a state university, Florida College System institution, career center operated by a school district, or charter technical career center. The bill requires a state university, Florida College System institution, career center operated by a school district, or charter technical career center to waive out-of-state fees for any person who is receiving educational assistance through the U.S. Department of Veterans Affairs and who physically resides in Florida while enrolled in the institution. This addition allows individuals, such as a spouse or child of a veteran or servicemember using GI Bill benefits, to qualify for in-state tuition rates.

In August 2014, the U.S. Congress enacted the Veterans Access, Choice, and Accountability Act of 2014. This Act requires the U.S. Department of Veterans Affairs (USDVA) to disapprove programs of education for payment of benefits under the Post-9/11 GI Bill and the Montgomery GI Bill-AD at public institutions if the schools charge qualifying veterans and dependents tuition and fees in excess of the rate for resident students. Public institutions must offer in-state tuition rates to certain veterans and their dependents by July 1, 2015, in order for the institution to be eligible to receive payments under the Post-9/11 GI Bill and the Montgomery GI Bill-Active Duty programs.

Based on data from the Board of Governors, the estimated fiscal impact of the bill on the State University System for one year is \$1,608,419 in unrealized tuition revenue. According to the Department of Education, the estimated fiscal impact is \$856,939 in unrealized tuition revenue for the Florida College System. The impact would be insignificant for district career centers based on current enrollment.

The bill will take effect upon becoming a law.

## II. Present Situation:

### Tuition and Out-of-State Fees

Under Florida law, “tuition” is defined as “the basic fee charged to a student for instruction provided by a public postsecondary educational institution in this state.”<sup>1</sup> A student who is classified as a “resident for tuition purposes” is a student who qualifies for the in-state tuition rate.<sup>2</sup>

An “out-of-state fee” is “the additional fee for instruction provided by a public postsecondary education institution in this state, which fee is charged to a student who does not qualify for the in-state tuition rate.”<sup>3</sup> A “non-resident for tuition purposes” is defined as a “person who does not qualify for the in-state tuition rate,”<sup>4</sup> and pays the out-of-state fee in addition to tuition.

Residents for tuition purposes are charged in-state rates for tuition while non-residents pay out-of-state fees in addition to tuition, unless such costs are exempted or waived.<sup>5</sup>

### Fee Exemptions and Fee Waivers

Florida law provides fee exemptions<sup>6</sup> and fee waivers<sup>7</sup> to qualified students that meet specified criteria. A number of fee exemptions and fee waivers are permissive<sup>8</sup> while others are mandatory.<sup>9</sup>

Through one of the permissive fee waivers, the board of trustees at each state university, as well as school districts, and FCS institutions, are authorized to waive fees under certain conditions. The board of trustees of each state university is authorized to “waive tuition and out-of-state fees for purposes that support and enhance the mission of the university.”<sup>10</sup> Similarly, “[s]chool districts and Florida College System institutions may waive fees for any fee-nonexempt student.”<sup>11</sup>

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<sup>1</sup> Section 1009.01(1), F.S.

<sup>2</sup> Section 1009.21(1)(g), F.S.

<sup>3</sup> Section 1009.01(2), F.S.

<sup>4</sup> Section 1009.21(1)(e), F.S.

<sup>5</sup> Sections 1009.23(2)(a) and 1009.24(2), F.S.

<sup>6</sup> Section 1009.25, F.S.

<sup>7</sup> Section 1009.26, F.S.

<sup>8</sup> Section 1009.25(2), F.S. (authorizing each Florida College System institution to grant additional fee exemptions “up to 54 full-time equivalent students or 1 percent of [an] institution’s total full-time equivalent enrollment, whichever is greater at each institution”); ss. 1009.26(1)-(4), (6), (9), (10), (11), F.S.

<sup>9</sup> Section 1009.25(1)(a)-(g), F.S.; ss. 1009.26(5), (7), (8), F.S.

<sup>10</sup> Section 1009.26(9), F.S. (noting that fee waivers under this section must be grounded in policies adopted by the state university board of trustees under regulations adopted by the Board of Governors).

<sup>11</sup> Section 1009.26(1), F.S.



### ***The Congressman C.W. “Bill” Young Veteran Tuition Waiver Program***

The Congressman C.W. “Bill” Young Veteran Tuition Waiver Program was established during the 2014 Regular Session to waive out-of-state fees for veterans in Florida pursuing higher education.<sup>12</sup> Under this program, state universities, Florida College System institutions, career centers operated by a school district, and charter technical career centers are required to waive out-of-state fees for honorably discharged veterans of the U.S. Armed Forces, the U.S. Reserve Forces, or the National Guard who physically reside in Florida while enrolled in the institution.<sup>13</sup> Tuition and fees charged to a veteran who qualifies for the out-of-state fee waiver may not exceed the tuition and fees charged to a resident student. The waiver covers 110 percent of the credit hours the veteran needs to complete the applicable degree or certificate program.<sup>14</sup> Currently, a veteran’s dependents are not eligible for the out-of-state veterans’ fee waiver.

### ***Purple Heart Recipient Fee Waiver***

Florida law also provides a mandatory undergraduate fee waiver for “each recipient of a Purple Heart or another combat decoration superior in precedence” at a state university or Florida College System (FCS) institution.<sup>15</sup> The statute requires that the recipient:<sup>16</sup>

- Be in an undergraduate program that results in a certificate or degree;
- Currently be a resident of the state and has been a resident at the time of the action that resulted in the awarding of the applicable combat decoration; and
- Provide the institution with appropriate documentation of the separation from service and receipt of the combat decoration.

The fee waiver for Purple Heart recipients, and recipients of superior combat decorations, covers 110 percent of the credit hours the recipient needs to complete the applicable degree or certificate program.<sup>17</sup>

### **U.S. Department of Veterans Affairs Education Benefit Programs**

The USDVA provides financial assistance to eligible veterans and dependents pursuing postsecondary education. The educational assistance programs administered by the USDVA are addressed below.

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<sup>12</sup> Chapter 2014-1, Laws of Fla.

<sup>13</sup> Section. 1009.26(13)(a), F.S.

<sup>14</sup> Final data is not yet available from the respective institutions on the number of veteran fee waivers granted under s. 1009.26(13), F.S. Preliminary data from the FCS shows that 721 fee waivers were awarded as of February 4, 2015, for the 2014-2015 academic year. This preliminary data is subject to change upon final submission of waiver data from the respective FCS institutions. FCS data provided via e-mail by FCS staff on February 12, 2015. E-mail on file with Military and Veterans Affairs, Space, and Domestic Security Committee.

<sup>15</sup> Section 1009.26(8), F.S.

<sup>16</sup> Section 1009.26(8)(a)-(c), F.S.

<sup>17</sup> Section 1009.26(8), F.S.

***Post-9/11 GI Bill***

The Post-9/11 GI Bill<sup>18</sup> is the newest educational assistance program that provides financial support for education and housing to individuals with at least 90 days of aggregate active duty service on or after September 11, 2001, or individuals discharged with a service-connected disability after 30 continuous days of active duty service. Individuals may be eligible for up to 36 months of education benefits and eligibility generally expires 15 years from the date of the last discharge or release from active duty service.

The Post-9/11 GI Bill provides beneficiaries the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public higher education institution in the state in which the individual is attending school. The tuition and fees payment is paid directly to the school on behalf of the student and is prorated by the student’s benefit level.<sup>19</sup> Post-9/11 GI Bill benefits may be used for approved training, which includes: graduate and undergraduate degrees, non-college degree programs for vocational and technical training, apprenticeship and on-the-job training, flight training, correspondence training, certification and licensing, national testing programs, entrepreneurship training, and a tutorial assistance program.

An individual is eligible for a fixed percentage of the payments authorized under the Post-9/11 GI Bill based on the individual’s amount of creditable active duty service since September 11, 2001. The table below describes the maximum benefit payable for the applicable length of an individual’s active duty service.

<b>Post-9/11 GI Bill Service Requirements<sup>20</sup> (Aggregate active duty service after Sept. 10, 2001)</b>	<b>Percentage of Maximum Benefit Payable</b>
At least 36 months	100
At least 30 continuous days on active duty (must be discharged due to service-connected disability)	100
At least 30 months, but less than 36 months	90
At least 24 months, but less than 30 months	80
At least 18 months, but less than 24 months	70
At least 12 months, but less than 18 months	60
At least 6 months, but less than 12 months	50
At least 90 days, but less than 6 months	40

**Post-9/11 GI Bill Transferability<sup>21</sup>**

A servicemember may transfer all or some of their unused Post-9/11 GI Bill benefits to their spouse or children. Transfer requests are submitted and approved while the servicemember is in the military. The servicemember must have at least six years of service and commit to an

<sup>18</sup> 38 U.S.C. §§3301-3325.

<sup>19</sup> Post-9/11 GI Bill students are also entitled to a monthly housing allowance and an annual books and supplies stipend paid directly to the student, both prorated by the student’s length of service percentage. The housing allowance is equal to the Department of Defense’s Basic Allowance for Housing for an “E-5 with dependents” and the zip code of the school. The books and supplies stipend is based on the number of credit hours taken and may not exceed \$1,000 per academic year.

<sup>20</sup> USDVA Pamphlet 22-09-01 RE: Post-9/11 GI Bill. May 2012. Available at: [http://www.benefits.va.gov/gibill/docs/pamphlets/ch33\\_pamphlet.pdf](http://www.benefits.va.gov/gibill/docs/pamphlets/ch33_pamphlet.pdf)

<sup>21</sup> 38 U.S.C. § 3319.

additional four years of service in order to transfer benefits to a spouse or child. An eligible servicemember may transfer up to the total months of unused Post-9/11 GI Bill benefits, or the entire 36 months if the member has used none.

A spouse may start to use the benefit immediately upon transfer, while the servicemember remains in the military or after separation. A spouse may use transferred Post-9/11 GI Bill benefits for up to 15 years after the servicemember's last separation from active duty service. A child may start to use the benefit only after the transferor has completed at least 10 years of military service. This may be while the servicemember remains in the military or after separation. A child is no longer eligible for the transferred benefits after reaching 26 years of age.

#### Marine Gunnery Sergeant John David Fry Scholarship<sup>22</sup>

The Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) entitles the surviving spouse<sup>23</sup> and children of a servicemember who died in the line of duty after September 10, 2001, to Post-9/11 GI Bill benefits. The Fry Scholarship pays eligible dependents 36 months of the full, 100 percent level, of the Post-9/11 GI Bill. This includes the tuition and fee payment, a monthly housing allowance, and a books and supplies stipend. A child's Fry Scholarship eligibility ends on their 33<sup>rd</sup> birthday and a spouse loses eligibility upon remarriage.

During fiscal year 2013, there were 63,947 Post-9/11 GI Bill beneficiaries enrolled in a higher education institution in Florida.<sup>24</sup>

#### ***Montgomery GI Bill – Active Duty***

The Montgomery GI Bill-Active Duty (MGIB-AD)<sup>25</sup> generally applies to veterans who began active duty service for the first time after June 30, 1985, had their pay reduced by \$100 a month for 12 months, and received an honorable discharge. Assistance may be used for college degree and certificate programs, technical or vocational courses, flight training, apprenticeships or on-the-job training, high-tech training, licensing and certification tests, entrepreneurship training, certain entrance examinations, and correspondence courses. MGIB-AD benefits are paid on a monthly basis directly to the veteran. The monthly benefit amount depends on several factors including length of service and the type of training pursued. The current monthly rate for a veteran who completed an enlistment of 3 years or more who is pursuing a full time college degree or certificate is \$1,717.<sup>26</sup> A veteran may be eligible for up to 36 months of benefits and must use the benefit within 10 years of the veteran's last discharge. During fiscal year 2013, there were 6,530 MGIB-AD beneficiaries enrolled in a higher education institution in Florida.<sup>27</sup>

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<sup>22</sup> 38 U.S.C. § 3311(b)(9).

<sup>23</sup> Public Law 113-146, Title VII, Section 701, The Veterans Access, Choice, and Accountability Act of 2014, expanded eligibility for the Fry Scholarship to surviving spouses effective January 1, 2015.

<sup>24</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>25</sup> 38 U.S.C. §§3001-3035.

<sup>26</sup> USDVA website. MGIB-AD Rates Effective October 1, 2014. Available at: [http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch30/ch30rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch30/ch30rates100114.asp).

<sup>27</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

### ***Montgomery GI Bill – Selected Reserve***

The Montgomery GI Bill – Selected Reserve program (MGIB-SR)<sup>28</sup> provides educational assistance to members actively participating in the Selected Reserve.<sup>29</sup> Reservists must be actively drilling and have a 6-year obligation in the reserves to be eligible.<sup>30</sup> Assistance may be used for college degree and certificate programs, co-op training, technical or vocational courses, flight training, apprenticeships or on-the-job training, high-tech training, licensing and certification tests, entrepreneurship training, certain entrance examinations, and correspondence courses. A reservist may qualify for up to 36 months of MGIB-SR benefits, in which benefits are paid on a monthly basis directly to the reservist. The current monthly rate payable to a qualifying reservist for a full time degree or certificate program is \$367.<sup>31</sup> During fiscal year 2013, there were 2,575 MGIB-SR beneficiaries enrolled in a higher education institution in Florida.<sup>32</sup>

### ***Survivors' and Dependents' Educational Assistance***

Survivors' and Dependents' Educational Assistance program (DEA)<sup>33</sup> is the USDVA benefit program designed for the spouse and children of a veteran who has a service-connected permanent and total disability, died as a result of service, or is listed as Missing in Action or as a Prisoner of War.<sup>34</sup> Benefits may be used for degree and certificate programs, apprenticeship, and on-the-job training with a maximum entitlement of 45 months. Children are eligible for DEA until age 26. Spouses are generally eligible for DEA for 10 years from the date the USDVA finds the spouse eligible or the date of the death of the veteran, or 20 years in certain circumstances. The current monthly rate payable to a qualifying spouse or child for a full time degree or certificate program is \$1,018.<sup>35</sup> During fiscal year 2013, there were 6,770 DEA beneficiaries enrolled in a higher education institution in Florida.<sup>36</sup>

### ***Reserve Educational Assistance Program***

Reserve Educational Assistance Program (REAP)<sup>37</sup> provides educational assistance to National Guard members and reservists who are called to active duty in response to a war, national emergency, or contingency operation as declared by the President or Congress on or after September 11, 2001, for a minimum of 90 consecutive days.<sup>38</sup> Maximum full-time entitlement is

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<sup>28</sup> 10 U.S.C. §§16131-16136.

<sup>29</sup> Selected Reserve components include the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, Coast Guard Reserve, Army National Guard, and Air Force National Guard.

<sup>30</sup> 10 U.S.C. §§16131(a), 16132(a); Department of Veterans Affairs, *The Montgomery GI Bill-Selected Reserve*, [http://gibill.va.gov/documents/pamphlets/ch1606\\_pamphlet.pdf](http://gibill.va.gov/documents/pamphlets/ch1606_pamphlet.pdf).

<sup>31</sup> USDVA website. MGIB-SR Rates Effective October 1, 2014. Available at:

[http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch1606/ch1606rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1606/ch1606rates100114.asp)

<sup>32</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>33</sup> 38 U.S.C. §§3500-3566.

<sup>34</sup> 38 U.S.C. §3501(a)(1).

<sup>35</sup> USDVA website. REAP Rates Effective October 1, 2014. Available at:

[http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch35/ch35rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch35/ch35rates100114.asp)

<sup>36</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>37</sup> 10 U.S.C. §§16161-16166.

<sup>38</sup> 10 U.S.C. §16163(a).

36 months. Monthly benefit payments are made directly to a qualified National Guard member or reservist. The benefit rate is a portion of the MGIB-AD three-year enlistment rate. The current monthly rate payable for a full time degree or certificate program for a National Guard member or reservist with at least 90 consecutive days of service, but less than one year is \$686.80.<sup>39</sup> During fiscal year 2013, there were 615 REAP beneficiaries enrolled in a higher education institution in Florida.<sup>40</sup>

***Veterans Educational Assistance Program***

The Veterans Educational Assistance Program (VEAP)<sup>41</sup> is an education benefit for veterans who entered service for the first time between December 31, 1976, and July 1, 1985. Although there are still some veterans who use this program, it ended for new enrollees June 30, 1985. During fiscal year 2013, there were 2 VEAP beneficiaries enrolled in a higher education institution in Florida.<sup>42</sup>

The chart below shows the number of Florida beneficiaries for each USDVA education program for fiscal year 2011 through 2013.<sup>43</sup>

Fiscal Year	Total Beneficiaries	USDVA Educational Assistance Program					
		Post-9/11	MGIB-AD	MGIB-SR	DEA	VEAP	REAP
2011	68,133	42,607	14,608	3,020	6,810	7	1,081
2012	62,911	42,607	9,454	2,613	6,513	5	818
2013	87,140	63,947	6,530	2,575	6,770	2	615

**The Veterans Access, Choice, and Accountability Act of 2014**

The Veterans Access, Choice, and Accountability Act of 2014 (Choice Act)<sup>44</sup> was signed into law in August 2014 as a federal, bipartisan response to the health care access issues facing the USDVA. The Choice Act provides new authorities, funding, and other tools to help support and reform the USDVA. Among the provisions relating to veterans’ access to healthcare, the Choice Act addresses tuition rates at public higher education institutions for recently separated veterans and their dependents.<sup>45</sup> Specifically, the Choice Act requires the USDVA to disapprove programs of education for payment of benefits under the Post-9/11 GI Bill and the Montgomery GI Bill-AD at public institutions if the schools charge qualifying veterans and dependents tuition and fees in excess of the rate for resident students for the terms beginning after July 1, 2015. The USDVA will not issue payments for any students eligible for the Post-9/11 GI Bill or the

<sup>39</sup> USDVA website. REAP Rates Effective October 1, 2014. Available at:

[http://www.benefits.va.gov/GIBILL/resources/benefits\\_resources/rates/ch1607/ch1607rates100114.asp](http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1607/ch1607rates100114.asp)

<sup>40</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>41</sup> 38 U.S.C. §§3201-3243.

<sup>42</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>43</sup> National Center for Veterans Analysis and Statistics. Utilization Report on Department of Veterans Affairs Education Program Beneficiaries by Geography: FY 2000 to FY 2013. Available at: <http://www.va.gov/vetdata/Utilization.asp>

<sup>44</sup> Public Law 113-146.

<sup>45</sup> Public Law 113-146, Title VII, Section 702.

Montgomery GI Bill-AD until a school becomes fully compliant.<sup>46</sup> The Choice Act requirements apply only to qualifying students using either the Post-9/11 GI Bill or the Montgomery GI Bill-AD. Institutions are not required to change tuition rate policy for individuals using other USDVA educational benefits.

Post-9/11 GI Bill and Montgomery GI Bill-AD beneficiaries who are entitled to in-state tuition rates at public institutions pursuant to the Choice Act include:

- A veteran who lives in the state in which the institution of higher learning is located, regardless of the veteran's formal state of residence, and enrolls in the school within 3 years of discharge from a period of active duty service of 90 days or more; or
- A spouse or child using transferred benefits who lives in the state in which the institution of higher learning is located, regardless of the student's formal state of residence, and enrolls in the school within 3 years of the transferor's discharge from a period of active duty service of 90 days or more; or
- A spouse or child using benefits under the Marine Gunnery Sergeant John Dave Fry Scholarship who lives in the state in which the institution of higher learning is located, regardless of the student's formal state of residence, and enrolls in the school within 3 years of the servicemember's death in the line of duty following a period of active duty service of 90 days or more.

An individual who meets the initial requirements above will remain eligible for in-state tuition rates under the Choice Act provided that the individual remains continuously enrolled at the same institution of higher learning once the 3 year date of discharge has passed and continues to use either Post-9/11 GI Bill or the Montgomery GI Bill-AD benefits.

### **III. Effect of Proposed Changes:**

The bill amends s. 1009.26(13), F.S., to allow additional persons to be eligible for the out-of-state tuition fee waiver currently afforded to honorably discharged veterans residing in Florida and enrolled in a state university, Florida College System institution, career center operated by a school district, or charter technical career center. The bill requires a state university, Florida College System institution, career center operated by a school district, or charter technical career center to waive out-of-state fees for any person who is entitled to and uses educational assistance through the U.S. Department of Veterans Affairs for a quarter, semester, or term beginning after July 1, 2015, and physically resides in Florida while enrolled in the institution. This addition allows individuals, such as a spouse or child of a veteran or servicemember using GI Bill benefits, to qualify for in-state tuition rates. The Board of Governors and the State Board of Education are required to adopt regulations and rules, respectively, to administer the out-of-state fee waivers in s. 1009.26(13).

The bill also repeals the statutory provision that limits the out-of-state fee waiver for honorably discharged veterans to 110 percent of the required credit hours of a degree or certificate program.

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<sup>46</sup> USDVA summary of Section 702 of the Veterans Access, Choice and Accountability Act of 2014. Available at: [http://www.benefits.va.gov/GIBILL/docs/factsheets/Section\\_702\\_Factsheet.pdf](http://www.benefits.va.gov/GIBILL/docs/factsheets/Section_702_Factsheet.pdf)

The bill will take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Non-resident students using GI Bill educational benefits who qualify for the out-of-state fee waiver under SB 7028 would only pay in-state tuition and fee rates. This would provide a considerable savings to those students each semester.

For the 2014-2015 academic year, the average State University System undergraduate cost for tuition and fees for two semesters is \$5,934 for residents and \$20,625 for non-residents. At the graduate level, the average cost for two semesters is \$10,397 for residents and \$25,372 for non-residents.<sup>47</sup> For the same period, the Florida College System reports the average cost for two semesters is approximately \$3,156 for residents enrolled in lower-level credit programs and \$11,605 for non-residents. For residents enrolled in the upper-level credit programs the cost for two semesters is \$3,610 and \$15,393 for non-residents.<sup>48</sup> For district technical centers, the average cost for two semesters is \$2,502 for residents and \$10,053 for non-residents.<sup>49</sup>

C. Government Sector Impact:

Based on 2013-14 data from the Board of Governors on full-time equivalent students using educational assistance benefits through the USDVA, the estimated fiscal impact of the bill on the State University System for one year is \$1,608,419 in unrealized tuition

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<sup>47</sup> Florida Board of Governors website. 2014-2015 Tuition and Fees Excel database. Available at: <http://www.flbog.edu/about/budget/current.php>

<sup>48</sup> E-mail correspondence with Florida College System staff. February 13, 2015. On file with Military and Veterans Affairs, Space, and Domestic Security Staff.

<sup>49</sup> Telephone conversation with the Florida Department of Education Office of Career and Adult Education. February 25, 2015.

revenue. This estimate is based on the assumption that a veteran's dependents would enroll in 30 credit hours per year.<sup>50</sup> According to the Department of Education, the estimated fiscal impact is \$856,939 in unrealized tuition revenue for the Florida College System.<sup>51</sup> The fiscal impact would be insignificant for district career centers based on current enrollment.<sup>52</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1009.26 of the Florida Statutes.

**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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<sup>50</sup> E-mail correspondence with Board of Governors of the State University System of Florida staff. February 13, 2015. On file with Military and Veterans Affairs, Space, and Domestic Security Committee.

<sup>51</sup> E-mail correspondence with Department of Education staff. March 2, 2015. On file with Appropriations Subcommittee on Education staff.

<sup>52</sup> Telephone conversation with staff, Florida Department of Education. March 2, 2015.



By the Committee on Military and Veterans Affairs, Space, and Domestic Security

583-01647-15

20157028\_\_

A bill to be entitled

An act relating to educational opportunities for veterans; amending s. 1009.26, F.S.; revising criteria for eligibility for out-of-state fee waivers at state universities, Florida College System institutions, and specified career centers; removing a provision regarding the applicability of waivers to required credit hours for a student's degree or certificate program; requiring the Board of Governors and the State Board of Education to adopt regulations and rules, respectively; revising a short title provision; providing an effective date.

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

Section 1. Subsection (13) of section 1009.26, Florida Statutes, is amended to read:

1009.26 Fee waivers.—

(13) (a) There is established the Congressman C. W. "Bill" Young Veteran Tuition Waiver Program. A state university, Florida College System institution, career center operated by a school district under s. 1001.44, or charter technical career center shall waive out-of-state fees for a person who is:

1. An honorably discharged veteran of the United States Armed Forces, the United States Reserve Forces, or the National Guard who physically resides in this state while enrolled in the institution; or-

2. Entitled to and uses educational assistance provided by the United States Department of Veterans Affairs for a quarter,

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

583-01647-15

20157028\_\_

semester, or term beginning after July 1, 2015, who physically resides in this state while enrolled in the institution.

(b) Tuition and fees charged to a student veteran who qualifies for the out-of-state fee waiver under this subsection may not exceed the tuition and fees charged to a resident student. The waiver is applicable for 110 percent of the required credit hours of the degree or certificate program for which the student is enrolled.

(c) Each state university, Florida College System institution, career center operated by a school district under s. 1001.44, and charter technical career center shall report to the Board of Governors and the State Board of Education, respectively, the number and value of all fee waivers granted annually under this subsection.

(d) The Board of Governors and the State Board of Education shall respectively adopt regulations and rules to administer this subsection.

(e) ~~(b)~~ This subsection may be cited as the "Congressman C.W. 'Bill' Young Veteran Tuition Waiver Act."

Section 2. This act shall take effect upon becoming a law.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

**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 Appropriations Subcommittee on Education

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BILL: CS/SB 642

INTRODUCER: Banking and Insurance Committee and Senator Benacquisto and others

SUBJECT: Individuals with Disabilities

DATE: March 2, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson/Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 642 creates the Florida Achieving a Better Life Experience (ABLE) program, which would assist individuals with disabilities in saving money without losing their eligibility for state and federal benefits, and thereby providing a pathway for economic independence and a better quality of life. ABLE accounts resemble in some respects the federal 529-college savings plan that are tax-advantaged savings accounts. The federal ABLE Act of 2014 (“ABLE Act”), authorizes states to establish ABLE programs as an agency or instrumentality of the state or contract with other states to administer such accounts if certain conditions are met.<sup>1</sup>

The bill directs the Florida Prepaid College Board (Prepaid Board) to create Florida ABLE, Inc., as a direct support organization that must be organized as a not-for-profit corporation. The board of directors of Florida ABLE, Inc., must include the Chair of the Prepaid Board, one member appointed by the Prepaid Board (who may be a member of the Prepaid Board) and one member appointed by the Governor, both of whom have experience in accounting, risk management, or investment management, one appointee of the President of the Florida Senate, and one appointee of the Speaker of the Florida House of Representatives. The legislative appointees would include one advocate for individuals with disabilities and one advocate for individuals with developmental disabilities. The bill provides that the Florida ABLE, Inc., would operate under a contract with the Prepaid Board. Florida ABLE, Inc., is required to implement the Florida ABLE Program on or before July 1, 2016.

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<sup>1</sup> H.R. 5771, Division B, Title I. Public Law No. 113-295.

The bill provides that the state Medicaid agency, the Agency for Health Care Administration, would be a creditor of ABLE accounts. Upon the death of designated beneficiary of an account, and subject to any outstanding payments due for qualified disability expenses, all amounts remaining in the account, not to exceed the total medical assistance paid by or on behalf of Medicaid for such individuals after the account was opened, would be distributed to a state Medicaid program.

The Prepaid Board estimates the costs associated with the implementation of the Florida ABLE program will be \$3,386,000 for the 2015-2016 fiscal year.

This bill takes effect upon becoming a law.

## II. Present Situation:

In 2011, almost 28 percent of non-institutionalized individuals in the United States with disabilities, ages 21-64, lived below the federal poverty line, compared with 12 percent of individuals without disabilities. In Florida, approximately 9.5 percent of individuals ages 16-64 are individuals with disabilities.<sup>2</sup> The unemployment rate of this group is 35.6 percent and the poverty rate is 24.2 percent.<sup>3</sup>

The costs associated with caring for an individual with disabilities can vary based on the individual's unique circumstances. Some of these costs may include out-of-pocket health care, behavioral therapy, speech therapy, physical therapy, occupational therapy, educational services, transportation, caregivers, and other services.

### State and Federal Programs for Individuals with Disabled

Often, individuals with disabilities may qualify for state or federal assistance. The Social Security Disability Insurance (SSDI)<sup>4</sup> and Supplemental Security Income<sup>5</sup> (SSI) programs are two types of disability programs administered by the federal Social Security Administration. Applicants for each of the programs must meet strict medical requirements to qualify for disability benefits. Under the programs, disability is defined as the inability to engage in substantial gainful activity (SGA) due to a medically determinable physical or mental impairment expected to result in death or last at least 12 months.<sup>6</sup> A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA.<sup>7</sup>

The SSDI program is an insurance program that provides benefits to individuals who have contributed to the Social Security system and meet certain minimum work requirements. In contrast, SSI is a means-tested program for aged, blind, or disabled individuals who meet certain

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<sup>2</sup> National Disability Institute with support from the Florida Developmental Disabilities Council, *The Changing Face of Benefits, Knowledge for Successful Employment and Asset Development*, March 2013.

<sup>3</sup> *Id.*

<sup>4</sup> 42 U.S.C. ss. 401-433.

<sup>5</sup> 42 U.S.C. ss. 1381 note-1385 note.

<sup>6</sup> See <http://www.socialsecurity.gov/disability/professionals/bluebook/general-info.htm> (last accessed January 16, 2015).

<sup>7</sup> The monthly SGA earnings limit in 2015 for statutorily blind individuals is \$1,820. For non-blind individuals, the monthly SGA amount for 2015 is \$1,090. The amount of some SSI payments may be adjusted based on receipt of other income.

income and resource limitations; however, there are no contribution or minimum work requirements.<sup>8</sup> The SSI program provides cash payments assuring a minimum income for aged, blind, or disabled individuals who have very limited income and assets. Effective January 1, 2015, the maximum monthly Federal benefit rate is \$733 for an eligible individual and \$1,100 for an eligible individual with an eligible spouse.<sup>9</sup> The countable resource limit for SSI eligibility is \$2,000 for individuals and \$3,000 for couples with exclusions.<sup>10</sup> In December 2013, there were 547,594 SSI recipients (aged, blind, or disabled) and 551,858 disabled workers that were recipients of SSDI in Florida.<sup>11</sup>

A SSI recipient living alone or in a household where all members receive SSI benefits are generally eligible for Medicaid. The Department of Children and Families is responsible for determining eligibility for Medicaid and other programs. Medicaid is the medical assistance program, administered by the Agency for Health Care Administration (agency), which provides access to health care for low-income families and individuals. Medicaid also assists aged and disabled people with the costs of nursing facility care and other medical expenses. Medicaid is a partnership between the states and the federal government, with each paying about half the cost. The Division of Operations' Third Party Liability (TPL) Unit of the agency is responsible for identifying, managing and recovering funds for claims paid for by Florida Medicaid for which a third party was liable, thereby ensuring Medicaid is the payer of last resort. The TPL recovery services are contracted with Xerox State Healthcare, LLC (Formerly ACS State Healthcare, LLC). Some examples of liable third parties include Medicare and other insurance companies, casualty settlements, recipient estates, and trust and annuity recovery. An estimated 446,000 individuals in Florida are under age 65 and are recipients of SSI and Medicaid benefits.<sup>12</sup>

### **Federal ABLE Act of 2014**

The federal ABLE Act (Achieving a Better Life Experience Act of 2014) became law on December 19, 2014.<sup>13</sup> The ABLE Act permits a state to implement a qualified ABLE program and establish ABLE accounts for individuals with disabilities that meet certain criteria and are deemed “eligible individuals.” A designated beneficiary of an ABLE account is an eligible individual who establishes an ABLE account and is the owner of such of an account.<sup>14</sup> The provisions of the ABLE Act are effective for taxable years beginning after December 31, 2014.

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<sup>8</sup> The definition of disability for disabled children receiving SSI benefits is slightly different from the definition for adults. See criteria at: <http://www.ssa.gov/ssi/text-eligibility-ussi.htm#disabled-child> (last accessed on January 12, 2015).

<sup>9</sup> Generally, the maximum monthly payment changes yearly due to changes in the Consumer Price Index. The 2015 schedule is available at: <http://www.socialsecurity.gov/OACT/COLA/SSI.html> (last visited January 11, 2015).

<sup>10</sup> 20 C.F.R. s. 416.1201 and 20 C.F.R. ss. 416.1210-416.1239.

<sup>11</sup> Social Security Administration *Annual Statistical Supplement, 2014* available at:

<http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2014/5j.pdf> and

<http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2014/7b.pdf> (last accessed January 12, 2015).

<sup>12</sup> A number of individuals in the SSI file under age 65 did not have a disability onset set. Information provided by the Department of Children and Families (January 21, 2015) (on file with the Senate Committee on Banking and Insurance).

<sup>13</sup> H.R. 5771, Division B, Title I. Public Law 113-295.

<sup>14</sup> A designated beneficiary may also be a brother, sister, stepbrother, or stepsister of a former designated beneficiary of the ABLE account, provided such new designated beneficiary is also an eligible individual.

### ***Qualified ABLE Program***

A qualified ABLE program is a program established and maintained by a state or an agency or instrumentality of the state. A qualified ABLE program must meet many requirements, including the following:

- A person may make contributions for the benefit of an eligible individual to an ABLE account which is established for meeting the qualified disability expenses of the designated beneficiary of the account.
- The program must limit a designated beneficiary to one ABLE account.
- The program must allow for the establishment of ABLE accounts only for designated beneficiaries who are either residents of the state maintaining such ABLE program or residents of a state that has not established an ABLE program (“contracting state”) but has entered into a contract with a program state to provide the contracting state’s residents with access to the program state’s ABLE program.
- Contributions must be made in cash.
- The program must provide a separate accounting for each designated beneficiary.
- The program must limit investment directions from the designated beneficiary to a maximum of two times in any calendar year.
- The program may not pledge any interest in the program as a security for a loan.
- The program must establish adequate safeguards to prevent aggregate contributions on behalf of a designated beneficiary in excess of the amount established by the state under s. 529(b)(6) of the Internal Revenue Code. Aggregate contributions include contributions under any prior qualified ABLE program of any state or agency or instrumentality thereof.<sup>15</sup>
- Each officer or employee having control of the qualified ABLE program or their designee is required to report to the Secretary of the Department of Treasury information concerning the contributions, distributions, the return of excess contributions, and other information that may be required.
- A State ABLE program is required to submit electronically on a monthly basis to the Commissioner of Social Security statements on relevant distributions and account balances of all ABLE accounts.

An ABLE account provides favorable tax treatment for a designated beneficiary if certain conditions are met. Earnings in an ABLE account and distributions from the account for qualified disability expenses are not taxable income of the contributor or the designated beneficiary. The ABLE Act provides that an ABLE account may not receive aggregate contributions during a taxable year in excess of the annual gift-tax exclusion amount (\$14,000 for 2015).<sup>16</sup> If the distributions from a qualified ABLE account do not exceed the qualified distribution expenses of the designated beneficiary, no amount is includible in gross income. If the distributions exceed the qualified distribution expenses, the amount otherwise includible in gross income would be reduced by an amount that bears the same ratio to the distributed amount as the qualified disability expenses bear to that amount. The portion of any distribution that is

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<sup>15</sup> . The current maximum account balance for 529 plans in Florida is \$418,000. This cap is subject to periodic review and possible revision. States may be required to share information about account balances to ensure this provision is not violated. Caps in other states range from \$235,000 to \$450,000. Email from Florida Prepaid College Board staff (February 7, 2015) (on file with the Senate Committee on Banking and Insurance).

<sup>16</sup> See Internal Revenue Service information at <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Whats-New-Estate-and-Gift-Tax> (last visited February 7, 2015).

includible in gross income is subject to an additional 10-percent tax unless it was made after the death of the beneficiary. Amounts in an ABLÉ account may be rolled over without income tax liability to another ABLÉ account for the same beneficiary or another ABLÉ account for the designated beneficiary's brother, sister, stepbrother or stepsister who is also an eligible individual. Taxes may apply, however, to a change of designated beneficiary during any taxable year unless, as of the beginning of the year, the new beneficiary is both an eligible individual for the taxable year and a brother, sister, stepbrother or stepsister of the former beneficiary.

### ***Eligible individuals***

As described above, a qualified ABLÉ program may provide for the establishment of ABLÉ accounts only if those accounts have as their designated beneficiary an eligible individual. An individual is an eligible individual for a taxable year during such taxable year:

- The individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, and such blindness or disability occurred before the date the individual attained age 26; or
- A disability certification with respect to such individual has been filed with the Secretary of Treasury for the taxable year. A disability certification is a certification to the satisfaction of the Secretary of Treasury made by the eligible individual or the parent or guardian of the eligible individual, that the individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months, or is blind and such blindness or disability occurred before the date on which the individual attained age 26. The certification must include a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician.

### ***Qualified Disability Expenses***

The ABLÉ Act provides that earnings on distributions from an ABLÉ account are excluded from income only to the extent total distributions do not exceed the qualified disability expenses of the designated beneficiary. For purposes of the act, qualified disability expenses are any expenses related to the eligible individual's blindness or disability that are made for the benefit of the designated beneficiary. Those expenses include: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are authorized pursuant to regulations adopted by the Secretary of the U.S. Department of Treasury.

### ***Medicaid Recovery***

In the event the designated beneficiary dies, the account is subject to Medicaid recovery for the total amount of medical assistance provided for the designated beneficiary under the Medicaid program, less any premiums paid by or on behalf of the designated beneficiary to a Medicaid buy-in program. Prior to the Medicaid payback, funds in the ABLÉ account of the deceased designated beneficiary would be distributed for the payment of qualified disability expenses. The state is deemed a creditor of an ABLÉ account

### ***Treatment of ABLÉ accounts under Federal programs***

Generally, any amount in an ABLÉ account, and any distribution for qualified disability expenses, is disregarded for determining eligibility to receive, or the amount of, any assistance or benefit authorized by any Federal means-tested program with respect to any period an individual maintains, makes contributions to, or receives distributions from such ABLÉ account. However, in the case of the SSI program, a distribution for housing expenses is not disregarded, nor are amounts in an ABLÉ account in excess of \$100,000. In the case that an individual's ABLÉ account balance exceeds \$100,000, the individual's SSI benefits will be suspended until the individual's resources fall below \$100,000. However, the suspension does not apply for purposes of Medicaid eligibility. For the purposes of determining eligibility for SSI, the eligible individual is the owner of the account.

The Secretary of the U.S. Department of Treasury is required to issue regulations or other guidance no later than six months after the date of enactment of the ABLÉ Act to implement the Act, including regulations to:

- Enforce the one ABLÉ account per eligible individual limit;
- Specify information required to be presented to open an ABLÉ account;
- Define qualified disability expenses;
- Provide a process for disability certifications and determinations of disability, to be developed in consultation with the Commissioner of Social Security,
- Prevent fraud and abuse with respect to amounts claimed as qualified disability expenses; and
- Allow for transfers from one ABLÉ account to another ABLÉ account in cases in which an eligible individual has a change in state of residence.

### **Sunset Review of Direct Support Organizations**

Pursuant to s. 20.058, F.S., any law creating or authorizing the creation of a direct support organization must state that the creation of or authorization for the DSO is repealed on October 1 of the fifth year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature.

### **III. Effect of Proposed Changes:**

CS/SB 642 creates the Florida Achieving a Better Life Experience (ABLE) Act (the Florida ABLÉ Act). The Florida ABLÉ Act establishes the Florida ABLÉ program, which would assist individuals with disabilities in saving money without losing their eligibility for state and federal benefits, and thereby providing a pathway for economic independence and a better quality of life. This program was created by the federal Achieving a Better Life Experience Act of 2014 (ABLE Act), which authorizes states to establish ABLÉ programs as an agency or instrumentality of the state or contract with other states to administer such accounts if certain conditions are met.

The Florida ABLÉ program would facilitate the ability of individuals with disabilities to work and live independently without losing access to Medicaid and SSI if certain conditions are met. Under the Florida ABLÉ program, an eligible individual for the program would be an individual who becomes disabled prior to age 26 and is entitled to benefits due to blindness or disability

under the Social Security Disability Income program or SSI program or meets eligibility through the disability certification process. A designated beneficiary is defined to mean an eligible individual who establishes an ABLE account or the eligible individual to whom an account was transferred.

Under the Florida ABLE program, individuals with disabilities family members and others can contribute funds to a tax-exempt ABLE account without affecting the individual's eligibility for state and federal benefits, such as SSI and Medicaid. Those funds can be used for qualified disability expenses that include education, housing, transportation, employment support, health, prevention, wellness, financial, and legal expenses, and other expenses authorized through federal regulations. Funds placed in the ABLE program would supplement rather than supplant benefits provided through state and federal programs, earnings, and other sources.

Earnings, cash contributions, and qualified distributions associated with an ABLE account would not count as taxable income or resources for an individual with disabilities who meets certain eligibility requirements. For 2015, aggregate contributions to an ABLE account during the taxable year are capped at \$14,000. For purposes of eligibility for Supplemental Security Income (SSI) disability eligibility, only the first \$100,000 in an ABLE account is disregarded. If the balance in an ABLE account exceeds \$100,000, any SSI benefits are suspended until the balance is reduced to \$100,000; however, an individual would continue to be eligible for Medicaid and other means-tested programs.

**Section 1** of the bill creates s. 1009.985, F.S., which provides that sections 1009.985-1009.988 may be cited as the "Florida Achieving a Better Life Experience (ABLE) Act" (the Florida ABLE Act).

**Section 2** of the bill creates s. 1009.986, F.S., creating the Florida ABLE, Inc., as a direct support organization, and the Florida ABLE program. The bill provides a statement that the Legislature intends to establish a qualified ABLE program in Florida that is implemented consistently with federal law and maximizes program efficiency and effectiveness. The bill also provides definitions consistent with the federal ABLE Act.

#### **Creation of Florida ABLE, Inc. [s. 1009.986(3), F.S.]**

The Florida ABLE program (Program) will be established through the creation of Florida ABLE, Inc., (Florida ABLE), a not-for-profit direct support organization (DSO) established by the Florida Prepaid College Board (Prepaid Board). Florida ABLE will receive, hold, invest, and administer property and make expenditures for the Florida ABLE program. Florida ABLE will be audited in accordance with s. 215.981, F.S., which contains the audit requirements for state agency DSOs.

***Oversight by Florida Prepaid College Board*** – Florida ABLE will operate under a written contract with the Prepaid Board that requires the articles of incorporation and bylaws of Florida ABLE to be approved by the Prepaid Board. Florida ABLE is also required to submit an annual budget to the Prepaid Board for its approval. The Prepaid Board is required to certify annually that Florida ABLE is complying with contract terms and acting in accordance with the Florida



ABLE Act and in the best interest of the state. The Florida ABLE fiscal year will begin on July 1, and end June 30 of the following year.

The bill allows Florida ABLE to utilize the resources of the Prepaid Board and requires Florida ABLE to pay reasonable consideration to the Prepaid Board for its products and services. Florida ABLE must authorize the Prepaid Board to solicit proposals, contract, or subcontract, or amend the Prepaid Board's contractual service agreements for the benefit of Florida ABLE. The Prepaid Board will also maintain the website of Florida ABLE.

Moneys and property held in trust by Florida ABLE, if it is no longer approved to operate, will revert to Florida Prepaid or the state. Disclosure must be made to donors of the distinction between Florida Prepaid and Florida ABLE, and the material provisions of the contract;

***Board of Directors of Florida ABLE, Inc.*** – The Florida ABLE, Inc., board of directors (ABLE Board) will have 5 members:

- The Chair of Florida Prepaid, who serves as chair of the Florida ABLE board;
- An advocate for persons with disabilities appointed by the President of the Senate;
- An advocate for persons with disabilities appointed by the Speaker of the House;
- One of the two advocates for the disabled must be an advocate of persons with developmental disabilities as defined in s. 393.063, F.S., which are intellectual disability, cerebral palsy, autism, spina bifida, and Prader-Willi syndrome;
- A person with expertise in accounting, risk management, or investment management appointed by the Prepaid Board and who may be a member of the Prepaid Board;
- A person with expertise in accounting, risk management, or investment management appointed by the Governor.

The ABLE Board must meet at least quarterly and may also meet upon the call of the chair. A quorum is a majority of the current membership. Appointees to the ABLE Board serve for 3 years, may be reappointed, serve without compensation, and may be reimbursed for travel expenses pursuant to s. 112.061, F.S.

### **Participation Agreements and Contracting [s. 1009.986(4), F.S.]**

***Participation Agreements*** – The Florida ABLE program will enter into participation agreements with disabled beneficiaries. The participation agreement is the contract between Florida ABLE and qualified disabled beneficiaries that will allow the latter to set up an ABLE account.

The bill sets forth mandatory provisions of participation agreements including provisions prohibiting beneficiaries from establishing accounts in violation of federal law (such as establishing more than one account) or in excess of federal law (currently, the maximum annual contribution is \$14,000 per year). A participation agreement may be amended to increase or decrease the level of participation, change beneficiaries, and for other authorized purposes. The participation agreement must allow the involuntary liquidation of an ABLE account if a material misrepresentation is made.

A contract or participation agreement is not a debt or obligation of the Prepaid Board or state but is only an obligation of the Florida ABLE program. The obligation of Florida ABLE, Inc., is limited to the amount in the Florida ABLE Trust Fund.

***Contracting*** – Florida ABLE may contract to participate in the ABLE program of another state if Florida does not establish a qualified ABLE program. Florida may also contract with other states that do not have an authorized ABLE program to allow those states to participate in the Florida ABLE program.

***Vested Rights of Beneficiaries*** – Under the bill, the state pledges to designated beneficiaries that their vested rights will not be limited or altered until the program's obligations are met and discharged. Limiting or altering rights may be done if adequate provision is made by law to protect designated beneficiaries pursuant to the obligations of Florida ABLE, Inc. The pledge to beneficiaries also does not preclude termination of the Florida ABLE program if the program is determined to not be financially feasible.

**Implementation of the Florida ABLE Program** [s. 1009.986(4), (9) F.S.]

***Legal Opinions Required Prior to Implementation*** – On or before July 1, 2016, Florida ABLE must establish and administer the Florida ABLE program. Before doing so, it must obtain a legal opinion that the Florida ABLE program complies with s. 529A of the Internal Revenue Code (the federal ABLE Act) and complies with federal securities law and qualifies for tax exemptions under such law.

***Status Report*** – On or before November 1, 2015, Florida ABLE must provide to the Governor, President of the Senate, and Speaker of the House a status report and recommendations on the establishment of the Florida ABLE program.

***Termination of ABLE Program*** – The Florida ABLE program will continue in existence until terminated by law by the Legislature. The bill specifies that the state may terminate the program if it is financially infeasible. If the Florida ABLE program is terminated, amounts in the Florida ABLE Trust Fund held for beneficiaries must be returned in accordance with the participation agreement.

**Provisions Related to Investment Management, Creditor's Claims and Medicaid Recovery, and Annual Reporting** [s. 1009.986(5)-(7) and (9), F.S.]

***Comprehensive Investment Plan*** – Florida ABLE must establish a comprehensive investment plan for the ABLE program, subject to the approval of the Prepaid Board, and may place Florida ABLE program assets in investment products, but only in proportions designated in the investment plan and in compliance with federal and state laws and regulations. Designated beneficiaries may not direct investment of their contributions unless specific fund options are offered by Florida ABLE. The Federal ABLE Act prohibits direction of investments by beneficiaries more than two times in a calendar year.

***Exemption from Creditor's Claims*** – Moneys paid into or out of the Florida ABLE Trust Fund by or for a designated beneficiary are exempt from creditors' claims. Section 3 of the bill amends

s. 222.22, F.S., to provide that moneys paid into or out of an ABLE program, and the income and assets of the ABLE program, are exempt from creditor's claims against any designated beneficiary or other ABLE program participant.

***Priority of Distributions and Medicaid Recovery*** – ABLÉ account funds of a deceased beneficiary must first be distributed for qualified disability expenses followed by distributions for a Medicaid claim. Any remaining amount is distributed pursuant to the participation agreement.

***Annual Report*** – Florida ABLÉ must prepare an annual report providing a detailed accounting of the Florida ABLÉ program and describing the financial condition of the program. Copies of the report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of each legislative chamber. The report must be made available to designated beneficiaries. Accounts of the Florida ABLÉ program are subject to annual audit by the Auditor General.

**Rulemaking Authority** [s. 1009.986(10), F.S.]

The Prepaid Board must adopt rules to administer the Florida ABLÉ program. The rules must include governance and operating procedures for Florida ABLÉ, the conditions for Florida ABLÉ to use the property, facilities, or personnel of the Prepaid Board, the procedures for determining that an ABLÉ account has been abandoned, and the provisions necessary for the Florida ABLÉ program to retain its status as a qualified ABLÉ program, tax exempt status, or other similar status for the program or participants under the Internal Revenue Code. The Florida ABLÉ program must inform participants of changes to the tax or securities status of their participation agreements and interests in the ABLÉ program.

**Outreach Partners** [s. 1009.986(11), F.S.]

The Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, and the Department of Education must assist Florida ABLÉ in providing public information and outreach about the Florida ABLÉ program.

**Repeal Date** [s. 1009.986(12), F.S.]

Section 2 of the bill, establishing the Florida ABLÉ program, will be repealed October 2, 2020, unless reviewed and saved from repeal by the Legislature. The repeal provision is necessary to comply with s. 20.058, F.S., which requires each law creating a direct-support organization to require its repeal on October 1 of the fifth year after enactment.

**Section 3** of the bill amends s. 222.22, F.S., to provide that, except as provided in s. 1009.986(7), F.S., (detailing priority of distributions upon the death of an ABLÉ account designated beneficiary) moneys paid into or out of an ABLÉ account, and the income and assets of the ABLÉ account program, are not liable to attachment, levy, garnishment or legal process in favor of any creditor or claimant against any designated beneficiary or other program participant.

**Section 4** amends s. 1009.971, F.S., to specify that the Florida Prepaid College Board has the powers and duties necessary to perform its obligations regarding the Florida ABLE program created by Section 2 of the bill.

**Section 5** of the bill provides that the act will take effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 642, the Florida ABLE program will assist individuals with disabilities in saving money in tax-advantaged accounts without losing their eligibility for state and federal benefits, and thereby providing a pathway for economic independence. The bill would allow an indeterminate number of individuals to save additional assets or resources in these accounts and use the funds to pay for qualified disability expenses.

The Florida Prepaid College Board estimates that 4,000 individuals in Florida may open ABLE accounts out of an estimated target population of 400,000.

C. Government Sector Impact:

The Florida Prepaid College Board estimates the costs for Fiscal Year 2015-2016 associated with the implementation of the Florida ABLE program will be \$3,386,000. This estimated budget assumes the Florida ABLE program will begin operation as early as April 1, 2016, but no later than July 1, 2016, and that the program will operate for one quarter of that fiscal year. As indicated above, the Florida Prepaid College Board estimates 4,000 individuals may open ABLE accounts during Fiscal Year 2015-2016.

The impact on Medicaid and other federal means-tested programs is indeterminate at this time. According to a report by the Congressional Budget Office (CBO), the legislation

would increase the number of beneficiaries of federal means-tested programs.<sup>17</sup> The CBO expects that the ABLE Act would increase SSI caseloads for individuals whose eligibility for SSI benefits was denied or interrupted because of excess resources and for individuals who do not apply for SSI under current law because of excess resources, but who would otherwise meet SSI's age or disability requirement and income requirement.

The CBO estimated that enacting the federal ABLE Act would increase the number of disabled adults under the age of 65 who enroll in Medicaid because they could hold cash assets in an ABLE account that would not count against Medicaid eligibility limits. Because a beneficiary of an ABLE account must have a disability that occurred before he reached age 26, CBO does not expect an increase in the number of elderly individuals who enroll in Medicaid. Additionally, the CBO does not expect that establishment of ABLE accounts would increase the number of children and nondisabled adults enrolled in Medicaid because those individuals are not required to meet an asset test under current law.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 222.22 and 1009.971.

This bill creates the following sections of the Florida Statutes: 1009.985 and 1009.986.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on February 17, 2015:**

The CS provides the following changes:

**Florida ABLE, Inc., Board of Directors**

The CS revises the composition of the board by reducing the number of directors from seven to five and changing the membership qualifications. The CS provides that the chair of the Florida Prepaid College Board would serve on the board of directors of Florida ABLE, Inc., along with one member appointed by the Governor and one additional member appointed by the Florida Prepaid College Board, and two directors appointed by the Legislature's presiding officers. Under the CS, an appointee of the Governor and

<sup>17</sup> Congressional Budget Office Cost Estimate, H.R. 647, September 23, 2014, as ordered reported by the House Committee on Ways and Means on July 31, 2014.

appointee of the Florida Prepaid College Board would replace the director of the Agency for Persons with Disabilities and the executive director of the Florida Prepaid College Board. The CS reduces the number of legislative appointees from four to two. The legislative appointees would include an advocate for individuals with disabilities and one advocate for individuals with developmental disabilities.

#### **Florida ABLE Program Implementation**

The CS requires Florida ABLE Program to be implemented on or before July 1, 2016. Florida ABLE, Inc., is required to submit a status report to the Legislature by November 1, 2015, regarding the implementation of the program and any legislative recommendations, if applicable, that are necessary to ensure the program operates in an effective and efficient manner.

The CS changes the effective date of the bill from October 1, 2015, to effective upon becoming law to allow Florida ABLE, Inc., additional time to implement the ABLE program.

#### **State Outreach Partners**

The bill provides that the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Children and Families, and the Department of Education would coordinate with Florida ABLE, Inc., in the provision of outreach and public information about the ABLE accounts to reach the target audience.

#### **Unclaimed Property**

The CS provides that if an account is abandoned, as provided in rules adopted by the ABLE Program, the balance of the account could be used to operate the Florida ABLE program. CS/SB 642 allows these funds to be used for the ABLE program or for funding scholarships for economically disadvantaged youths. The CS provides that if the program is terminated because it is not financially feasible, funds would be distributed pursuant to the terms of the participation agreement unless the account is abandoned. CS/SB 642 provides that any unclaimed funds that were remaining would be used for scholarships for economically disadvantaged youths.

#### **Technical and Clarifying Changes**

The CS provides technical, clarifying changes relating to definitions and the provisions relating to powers and duties of Florida ABLE, Inc., Florida ABLE Program, and Florida Prepaid College Board.

#### **B. Amendments:**

None.

By the Committee on Banking and Insurance; and Senators  
Benacquisto and Sobel

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1 A bill to be entitled  
2 An act relating to individuals with disabilities;  
3 creating s. 1009.985, F.S.; providing a short title;  
4 creating s. 1009.986, F.S.; providing legislative  
5 intent; defining terms; requiring the Florida Prepaid  
6 College Board to establish a direct-support  
7 organization known as "Florida ABLE, Inc."; specifying  
8 requirements for the registration, organization,  
9 incorporation, and operation of the organization;  
10 requiring the organization to operate under a written  
11 contract with the Florida Prepaid College Board;  
12 specifying provisions that must be included in the  
13 contract; requiring the organization to provide for an  
14 annual financial audit and supplemental data under  
15 certain circumstances; establishing and providing for  
16 the membership of a board of directors for the  
17 organization; providing limits on a director's  
18 authority; specifying meeting and quorum requirements;  
19 prohibiting compensation for the service of directors  
20 and other specified members; authorizing specified  
21 reimbursement for the travel expenses of directors and  
22 specified members of the organization; authorizing the  
23 organization to use certain services, property, and  
24 facilities of the Florida Prepaid College Board;  
25 requiring the organization to establish and administer  
26 the Florida ABLE program by a specified date;  
27 specifying requirements that must be met before  
28 implementation of the program; requiring a  
29 participation agreement for the program which contains

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30 specified provisions; authorizing other provisions  
31 that may be included in the agreement; providing for  
32 the amendment of the agreement under certain  
33 circumstances; providing for the use of the balance of  
34 an abandoned ABLE account by the organization;  
35 providing that a contract or participation agreement  
36 entered into by the organization or an obligation of  
37 the organization does not constitute a debt or  
38 obligation of the Florida Prepaid College Board or the  
39 state; authorizing the organization to contract with  
40 other states for specified purposes under certain  
41 circumstances; providing for termination of the  
42 program under certain circumstances and for the  
43 disposition of certain assets upon termination;  
44 prohibiting the state from limiting or altering the  
45 specified vested rights of designated beneficiaries  
46 except under specified circumstances; requiring the  
47 organization to establish a comprehensive investment  
48 plan for the program; exempting funds paid into the  
49 program's trust fund from the claims of specified  
50 creditors; providing for recovery by Medicaid of  
51 certain medical assistance provided to a deceased  
52 designated beneficiary; providing for the distribution  
53 of the balance of a deceased designated beneficiary's  
54 ABLE account; requiring the organization to assist and  
55 cooperate with the Agency for Health Care  
56 Administration and Medicaid program in other states by  
57 providing specified information; providing that  
58 specified payroll deduction authority applies to the

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59 Florida Prepaid College Board and the organization for  
 60 the purpose of administering the program; requiring  
 61 the organization to submit certain reports to  
 62 specified entities; requiring the Florida Prepaid  
 63 College Board to adopt rules; requiring the Agency for  
 64 Health Care Administration, the Agency for Persons  
 65 with Disabilities, the Department of Children and  
 66 Families, and the Department of Education to assist,  
 67 cooperate, and coordinate with the organization in the  
 68 provision of public information and outreach for the  
 69 program; providing that the section is repealed on a  
 70 specified date; amending s. 222.22, F.S.; providing  
 71 that specified moneys, assets, and income of a  
 72 qualified ABLE program, including the Florida ABLE  
 73 program, are not subject to attachment, levy,  
 74 garnishment, or certain legal process in favor of  
 75 certain creditors or claimants; amending s. 1009.971,  
 76 F.S.; conforming provisions to changes made by the  
 77 act; authorizing the Florida Prepaid College Board to  
 78 amend its contracts to provide the organization or  
 79 program with contractual services; providing an  
 80 effective date.

81  
 82 Be It Enacted by the Legislature of the State of Florida:

83  
 84 Section 1. Section 1009.985, Florida Statutes, is created  
 85 to read:

86 1009.985 Short title.—Sections 1009.985-1009.988 may be  
 87 cited as the "Florida Achieving a Better Life Experience (ABLE)

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88 Act."

89 Section 2. Section 1009.986, Florida Statutes, is created  
 90 to read:

91 1009.986 Florida ABLE program.—

92 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
 93 to establish a qualified ABLE program in this state which will  
 94 encourage and assist the saving of private funds in tax-exempt  
 95 accounts in order to pay for the qualified disability expenses  
 96 of eligible individuals with disabilities. The Legislature  
 97 intends that the qualified ABLE program be implemented in a  
 98 manner that is consistent with federal law authorizing the  
 99 program and that maximizes program efficiency and effectiveness.

100 (2) DEFINITIONS.—As used in ss. 1009.986-1009.988, the  
 101 term:

102 (a) "ABLE account" means an account established and  
 103 maintained under the Florida ABLE program.

104 (b) "Contracting state" means a state that has entered into  
 105 a contract with Florida ABLE, Inc., to provide residents of  
 106 Florida or that state with access to a qualified ABLE program.

107 (c) "Designated beneficiary" means the eligible individual  
 108 who established an ABLE account or the eligible individual to  
 109 whom an ABLE account was transferred.

110 (d) "Eligible individual" has the same meaning as provided  
 111 in s. 529A of the Internal Revenue Code.

112 (e) "Florida ABLE program" means the qualified ABLE program  
 113 established and maintained under this section by Florida ABLE,  
 114 Inc.

115 (f) "Internal Revenue Code" means the United States  
 116 Internal Revenue Code of 1986, as defined in s. 220.03(1), and

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117 regulations adopted pursuant thereto.

118 (g) "Participation agreement" means the agreement between  
 119 Florida ABLE, Inc., and a participant in the Florida ABLE  
 120 program.

121 (h) "Qualified ABLE program" means the program authorized  
 122 under s. 529A of the Internal Revenue Code which may be  
 123 established by a state or agency, or instrumentality thereof, to  
 124 allow a person to make contributions for a taxable year to an  
 125 ABLE account established for the purpose of meeting the  
 126 qualified disability expenses of the designated beneficiary of  
 127 the ABLE account.

128 (i) "Qualified disability expense" has the same meaning as  
 129 provided in s. 529A of the Internal Revenue Code.

130 (3) DIRECT-SUPPORT ORGANIZATION; FLORIDA ABLE, INC.-

131 (a) The Florida Prepaid College Board shall establish a  
 132 direct-support organization to be known as "Florida ABLE, Inc.,"  
 133 which is:

134 1. A Florida not-for-profit corporation registered,  
 135 incorporated, organized, and operated in compliance with chapter  
 136 617.

137 2. Organized and operated to receive, hold, invest, and  
 138 administer property and to make expenditures for the benefit of  
 139 the Florida ABLE program.

140 (b) Florida ABLE, Inc., shall operate under a written  
 141 contract with the Florida Prepaid College Board. The contract  
 142 must include, but is not limited to, provisions that require:

143 1. The articles of incorporation and bylaws of Florida  
 144 ABLE, Inc., to be approved by the Florida Prepaid College Board.

145 2. Florida ABLE, Inc., to submit an annual budget for

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146 approval by the Florida Prepaid College Board. The budget must  
 147 comply with rules adopted by the Florida Prepaid College Board.

148 3. Florida ABLE, Inc., to pay reasonable consideration to  
 149 the Florida Prepaid College Board for products or services  
 150 provided directly or indirectly by the Florida Prepaid College  
 151 Board.

152 4. The Florida Prepaid College Board to solicit proposals,  
 153 to contract or subcontract, or to amend contractual service  
 154 agreements of the Florida Prepaid College Board for the benefit  
 155 of Florida ABLE, Inc.

156 5. The Florida Prepaid College Board to maintain the  
 157 website of Florida ABLE, Inc.

158 6. The Florida Prepaid College Board to annually certify  
 159 that Florida ABLE, Inc., is complying with the terms of the  
 160 contract and acting in a manner consistent with this section and  
 161 in the best interest of the state. The certification must be  
 162 reported in the official minutes of a meeting of the Florida  
 163 Prepaid College Board.

164 7. The disclosure of material provisions in the contract  
 165 and of the distinction between the Florida Prepaid College Board  
 166 and Florida ABLE, Inc., to donors of gifts, contributions, or  
 167 bequests, and the inclusion of such disclosure on all  
 168 promotional and fundraising publications.

169 8. The fiscal year for Florida ABLE, Inc., to begin on July  
 170 1 and end on June 30 of the following year.

171 (c) Florida ABLE, Inc., shall provide for an annual  
 172 financial audit in accordance with s. 215.981. The Florida  
 173 Prepaid College Board and the Auditor General may require  
 174 Florida ABLE, Inc., or its independent auditor, to provide any

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175 supplemental data relating to the operation of Florida ABLE,  
 176 Inc.

177 (d)1. The board of directors of Florida ABLE, Inc., shall  
 178 consist of:

179 a. The chair of the Florida Prepaid College Board, who  
 180 shall serve as the chair of the board of directors of Florida  
 181 ABLE, Inc.

182 b. One individual who possesses knowledge, skill, and  
 183 experience in the areas of accounting, risk management, or  
 184 investment management, who shall be appointed by the Florida  
 185 Prepaid College Board. A current member of the Florida Prepaid  
 186 College Board, other than the chair, may be appointed.

187 c. One individual who possesses knowledge, skill, and  
 188 experience in the areas of accounting, risk management, or  
 189 investment management, who shall be appointed by the Governor.

190 d. Two individuals who are advocates of persons with  
 191 disabilities, one of whom shall be appointed by the President of  
 192 the Senate and one of whom shall be appointed by the Speaker of  
 193 the House of Representatives. At least one of the individuals  
 194 appointed under this sub-subparagraph must be an advocate of  
 195 persons with developmental disabilities, as that term is defined  
 196 in s. 393.063.

197 2.a. The term of the appointee under sub-subparagraph 1.b.  
 198 shall be up to 3 years as determined by the Florida Prepaid  
 199 College Board. Such appointee may be reappointed.

200 b. The term of the appointees under sub-subparagraphs 1.c.  
 201 and d. shall be 3 years. Such appointees may be reappointed for  
 202 up to one consecutive term.

203 3. Unless authorized by the board of directors of Florida

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204 ABLE, Inc., an individual director has no authority to control  
 205 or direct the operations of Florida ABLE, Inc., or the actions  
 206 of its officers and employees.

207 4. The board of directors of Florida ABLE, Inc.:

208 a. Shall meet at least quarterly and at other times upon  
 209 the call of the chair.

210 b. May use any method of telecommunications to conduct, or  
 211 establish a quorum at, its meetings or the meetings of a  
 212 subcommittee or other subdivision if the public is given proper  
 213 notice of the telecommunications meeting and provided reasonable  
 214 access to observe and, if appropriate, to participate.

215 5. A majority of the total current membership of the board  
 216 of directors of Florida ABLE, Inc., constitutes a quorum of the  
 217 board.

218 6. Members of the board of directors of Florida ABLE, Inc.,  
 219 and the board's subcommittees or other subdivisions shall serve  
 220 without compensation; however, the members may be reimbursed for  
 221 reasonable, necessary, and actual travel expenses pursuant to s.  
 222 112.061.

223 (e) Subject to rule adopted by the Florida Prepaid College  
 224 Board, Florida ABLE, Inc., may use property, other than money,  
 225 facilities, and personal services of the Florida Prepaid College  
 226 Board, provided that Florida ABLE, Inc., offers equal employment  
 227 opportunities to all persons regardless of race, color,  
 228 religion, sex, age, or national origin. As used in this  
 229 paragraph, the term "personal services" means use of the Florida  
 230 Prepaid College Board's full-time and part-time personnel,  
 231 payroll processing services, and other services prescribed by  
 232 rule of the Florida Prepaid College Board.

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233 (4) FLORIDA ABLE PROGRAM.—

234 (a) On or before July 1, 2016, Florida ABLE, Inc., shall  
 235 establish and administer the Florida ABLE program. Before  
 236 implementing the program, Florida ABLE, Inc., must obtain a  
 237 written opinion from counsel specializing in:

238 1. Federal tax matters which indicates that the Florida  
 239 ABLE program is designed to comply with s. 529A of the Internal  
 240 Revenue Code.

241 2. Federal securities law which indicates that the Florida  
 242 ABLE program and the offering of participation in the program  
 243 are designed to comply with applicable federal securities law  
 244 and qualify for the available tax exemptions under such law.

245 (b) The participation agreement must include provisions  
 246 specifying that:

247 1. The participation agreement is only a debt or obligation  
 248 of the Florida ABLE program and the Florida ABLE Program Trust  
 249 Fund and, as provided under paragraph (f), is not a debt or  
 250 obligation of the Florida Prepaid College Board or the state.

251 2. Participation in the Florida ABLE program does not  
 252 guarantee that sufficient funds will be available to cover all  
 253 qualified disability expenses for any designated beneficiary and  
 254 does not guarantee the receipt or continuation of any product or  
 255 service for the designated beneficiary.

256 3. The designated beneficiary must be a resident of this  
 257 state or a resident of a contracting state at the time the ABLE  
 258 account is established.

259 4. The establishment of an ABLE account in violation of  
 260 federal law is prohibited.

261 5. Contributions in excess of the limitations set forth in

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262 s. 529A of the Internal Revenue Code are prohibited.

263 6. The state is a creditor of ABLE accounts as, and to the  
 264 extent, set forth in s. 529A of the Internal Revenue Code.

265 7. Material misrepresentations by a party to the  
 266 participation agreement, other than Florida ABLE, Inc., in the  
 267 application for the participation agreement or in any  
 268 communication with Florida ABLE, Inc., regarding the Florida  
 269 ABLE program may result in the involuntary liquidation of the  
 270 ABLE account. If an account is involuntarily liquidated, the  
 271 designated beneficiary is entitled to a refund, subject to any  
 272 fees or penalties provided by the participation agreement and  
 273 the Internal Revenue Code.

274 (c) The participation agreement may include provisions  
 275 specifying:

276 1. The requirements and applicable restrictions for opening  
 277 an ABLE account.

278 2. The eligibility requirements for a party to a  
 279 participation agreement and the rights of the party.

280 3. The requirements and applicable restrictions for making  
 281 contributions to an ABLE account.

282 4. The requirements and applicable restrictions for  
 283 directing the investment of the contributions or balance of the  
 284 ABLE account.

285 5. The administrative fee and other fees and penalties  
 286 applicable to an ABLE account.

287 6. The terms and conditions under which an ABLE account or  
 288 participation agreement may be modified, transferred, or  
 289 terminated.

290 7. The disposition of abandoned ABLE accounts.

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291 8. Other terms and conditions determined to be necessary or  
 292 proper.

293 (d) The participation agreement may be amended throughout  
 294 its term for purposes that include, but are not limited to,  
 295 allowing a participant to increase or decrease the level of  
 296 participation and to change designated beneficiaries and other  
 297 matters authorized by this section and s. 529A of the Internal  
 298 Revenue Code.

299 (e) If an ABLE account is determined to be abandoned  
 300 pursuant to rules adopted by the Florida Prepaid College Board,  
 301 Florida ABLE, Inc., may use the balance of the account to  
 302 operate the Florida ABLE program.

303 (f) A contract or participation agreement entered into by  
 304 or an obligation of Florida ABLE, Inc., on behalf of and for the  
 305 benefit of the Florida ABLE program does not constitute a debt  
 306 or obligation of the Florida Prepaid College Board or the state,  
 307 but is only a debt or obligation of the Florida ABLE program and  
 308 the Florida ABLE Program Trust Fund. The state does not have an  
 309 obligation to a designated beneficiary or any other person as a  
 310 result of the Florida ABLE program. The obligation of the  
 311 Florida ABLE program is limited solely to amounts in the Florida  
 312 ABLE Program Trust Fund. All amounts obligated to be paid from  
 313 the Florida ABLE Program Trust Fund are limited to the amounts  
 314 available for such obligation. The amounts held in the Florida  
 315 ABLE program may be disbursed only in accordance with this  
 316 section.

317 (g) Notwithstanding any other provision of law, Florida  
 318 ABLE, Inc., may enter into an agreement with a contracting state  
 319 which allows Florida ABLE, Inc., to participate under the

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320 design, operation, and rules of the contracting state's  
 321 qualified ABLE program or which allows the contracting state to  
 322 participate under the Florida ABLE program.

323 (h) The Florida ABLE program shall continue in existence  
 324 until terminated by law. If the state determines that the  
 325 program is financially infeasible, the state may terminate the  
 326 program. Upon termination, amounts in the Florida ABLE Program  
 327 Trust Fund held for designated beneficiaries shall be returned  
 328 in accordance with the participation agreement.

329 (i) The state pledges to the designated beneficiaries that  
 330 the state will not limit or alter their rights under this  
 331 section which are vested in the Florida ABLE program until the  
 332 program's obligations are met and discharged. However, this  
 333 paragraph does not preclude such limitation or alteration if  
 334 adequate provision is made by law for the protection of the  
 335 designated beneficiaries pursuant to the obligations of Florida  
 336 ABLE, Inc., and does not preclude termination of the Florida  
 337 ABLE program if the state determines that the program is not  
 338 financially feasible. This pledge and undertaking by the state  
 339 may be included in participation agreements.

340 (5) COMPREHENSIVE INVESTMENT PLAN.—Florida ABLE, Inc.,  
 341 shall establish a comprehensive investment plan for the Florida  
 342 ABLE program, subject to the approval of the Florida Prepaid  
 343 College Board. The comprehensive investment plan must specify  
 344 the investment policies to be used by Florida ABLE, Inc., in its  
 345 administration of the program. Florida ABLE, Inc., may place  
 346 assets of the program in investment products and in such  
 347 proportions as may be designated or approved in the  
 348 comprehensive investment plan. Such products shall be

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349 underwritten and offered in compliance with the applicable  
 350 federal and state laws or regulations or exemptions therefrom. A  
 351 designated beneficiary may not direct the investment of any  
 352 contributions to the Florida ABLE program, unless specific fund  
 353 options are offered by Florida ABLE, Inc. Directors, officers,  
 354 and employees of Florida ABLE, Inc., may enter into  
 355 participation agreements, notwithstanding their fiduciary  
 356 responsibilities or official duties related to the Florida ABLE  
 357 program.

358 (6) EXEMPTION FROM CLAIMS OF CREDITORS.—Moneys paid into or  
 359 out of the Florida ABLE Program Trust Fund by or on behalf of a  
 360 designated beneficiary are exempt, as provided by s. 222.22,  
 361 from all claims of creditors of the designated beneficiary if  
 362 the participation agreement has not been terminated. Moneys paid  
 363 into the Florida ABLE program and benefits accrued through the  
 364 program may not be pledged for the purpose of securing a loan.

365 (7) MEDICAID RECOVERY; PRIORITY OF DISTRIBUTIONS.—

366 (a) Upon the death of the designated beneficiary, the  
 367 Agency for Health Care Administration and the Medicaid program  
 368 for another state may file a claim with the Florida ABLE program  
 369 for the total amount of medical assistance provided for the  
 370 designated beneficiary under the Medicaid program, less any  
 371 premiums paid by or on behalf of the designated beneficiary to a  
 372 Medicaid buy-in program. Funds in the ABLE account of the  
 373 deceased designated beneficiary must first be distributed for  
 374 qualified disability expenses followed by distributions for the  
 375 Medicaid claim authorized under this paragraph. Any remaining  
 376 amount shall be distributed as provided in the participation  
 377 agreement.

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378 (b) Florida ABLE, Inc., shall assist and cooperate with the  
 379 Agency for Health Care Administration and Medicaid programs in  
 380 other states by providing the agency and programs with the  
 381 information needed to accomplish the purpose and objective of  
 382 this subsection.

383 (8) PAYROLL DEDUCTION AUTHORITY.—The payroll deduction  
 384 authority provided under s. 1009.975 applies to the Florida  
 385 Prepaid College Board and Florida ABLE, Inc., for purposes of  
 386 administering this section.

387 (9) REPORTS.—

388 (a) On or before November 1, 2015, Florida ABLE, Inc.,  
 389 shall prepare a report on the status of the establishment of the  
 390 Florida ABLE program by Florida ABLE, Inc. The report must also  
 391 include, if warranted, recommendations for statutory changes to  
 392 enhance the effectiveness and efficiency of the program. Florida  
 393 ABLE, Inc., shall submit copies of the report to the Governor,  
 394 the President of the Senate, and the Speaker of the House of  
 395 Representatives.

396 (b) On or before March 31 of each year, Florida ABLE, Inc.,  
 397 shall prepare or cause to be prepared a report setting forth in  
 398 appropriate detail an accounting of the Florida ABLE program  
 399 which includes a description of the financial condition of the  
 400 program at the close of the fiscal year. Florida ABLE, Inc.,  
 401 shall submit copies of the report to the Governor, the President  
 402 of the Senate, the Speaker of the House of Representatives, and  
 403 the minority leaders of the Senate and the House of  
 404 Representatives and shall make the report available to each  
 405 designated beneficiary. The accounts of the Florida ABLE program  
 406 are subject to annual audit by the Auditor General.

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407 (10) RULES.—The Florida Prepaid College Board shall adopt  
 408 rules to administer this section. Such rules must include, but  
 409 are not limited to:

410 (a) Specifying the procedures by which Florida ABLE, Inc.,  
 411 shall be governed and operate, including requirements for the  
 412 budget of Florida ABLE, Inc., and conditions with which Florida  
 413 ABLE, Inc., must comply to use property, facilities, or personal  
 414 services of the Florida Prepaid College Board.

415 (b) The procedures for determining that an ABLE account has  
 416 been abandoned.

417 (c) Adoption of provisions determined necessary by the  
 418 Florida Prepaid College Board for the Florida ABLE program to  
 419 retain its status as a qualified ABLE program or the tax-exempt  
 420 status or other similar status of the program or its  
 421 participants under the Internal Revenue Code. Florida ABLE,  
 422 Inc., shall inform participants in the Florida ABLE program of  
 423 changes to the tax or securities status of their interests in  
 424 the ABLE program and participation agreements.

425 (11) STATE OUTREACH PARTNERS.—The Agency for Health Care  
 426 Administration, the Agency for Persons with Disabilities, the  
 427 Department of Children and Families, and the Department of  
 428 Education shall assist, cooperate, and coordinate with Florida  
 429 ABLE, Inc., in the provision of public information and outreach  
 430 for the Florida ABLE program.

431 (12) REPEAL.—In accordance with s. 20.058, this section is  
 432 repealed October 1, 2020, unless reviewed and saved from repeal  
 433 by the Legislature.

434 Section 3. Subsection (5) is added to section 222.22,  
 435 Florida Statutes, to read:

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436 222.22 Exemption of assets in qualified tuition programs,  
 437 medical savings accounts, Coverdell education savings accounts,  
 438 and hurricane savings accounts from legal process.—

439 (5) Except as provided in s. 1009.986(7), as it relates to  
 440 any validly existing qualified ABLE program authorized by s.  
 441 529A of the Internal Revenue Code, including, but not limited  
 442 to, the Florida ABLE program participation agreements under s.  
 443 1009.986, moneys paid into or out of such a program, and the  
 444 income and assets of such a program, are not liable to  
 445 attachment, levy, garnishment, or legal process in this state in  
 446 favor of any creditor of or claimant against any designated  
 447 beneficiary or other program participant.

448 Section 4. Subsections (1) and (4) of section 1009.971,  
 449 Florida Statutes, are amended to read:

450 1009.971 Florida Prepaid College Board.—

451 (1) FLORIDA PREPAID COLLEGE BOARD; CREATION.—The Florida  
 452 Prepaid College Board is hereby created as a body corporate with  
 453 all the powers of a body corporate for the purposes delineated  
 454 in this section. The board shall administer the prepaid program  
 455 and the savings program, and shall perform essential  
 456 governmental functions as provided in ss. 1009.97-1009.988 ~~ss.~~  
 457 ~~1009.97-1009.984~~. For the purposes of s. 6, Art. IV of the State  
 458 Constitution, the board shall be assigned to and  
 459 administratively housed within the State Board of  
 460 Administration, but it shall independently exercise the powers  
 461 and duties specified in ss. 1009.97-1009.988 ~~ss. 1009.97-~~  
 462 ~~1009.984~~.

463 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The  
 464 board shall have the powers and duties necessary or proper to

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465 carry out the provisions of ss. 1009.97-1009.988 ~~ss. 1009.97-~~  
 466 ~~1009.984~~, including, but not limited to, the power and duty to:  
 467 (a) Appoint an executive director to serve as the chief  
 468 administrative and operational officer of the board and to  
 469 perform other duties assigned to him or her by the board.  
 470 (b) Adopt an official seal and rules.  
 471 (c) Sue and be sued.  
 472 (d) Make and execute contracts and other necessary  
 473 instruments.  
 474 (e) Establish agreements or other transactions with  
 475 federal, state, and local agencies, including state universities  
 476 and Florida College System institutions.  
 477 (f) Administer the trust fund in a manner that is  
 478 sufficiently actuarially sound to defray the obligations of the  
 479 prepaid program and the savings program, considering the  
 480 separate purposes and objectives of each program. The board  
 481 shall annually evaluate or cause to be evaluated the actuarial  
 482 soundness of the prepaid fund. If the board perceives a need for  
 483 additional assets in order to preserve actuarial soundness of  
 484 the prepaid program, the board may adjust the terms of  
 485 subsequent advance payment contracts to ensure such soundness.  
 486 (g) Invest funds not required for immediate disbursement.  
 487 (h) Appear in its own behalf before boards, commissions, or  
 488 other governmental agencies.  
 489 (i) Hold, buy, and sell any instruments, obligations,  
 490 securities, and property determined appropriate by the board.  
 491 (j) Require a reasonable length of state residence for  
 492 qualified beneficiaries.  
 493 (k) Segregate contributions and payments to the trust fund

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494 into the appropriate fund.  
 495 (l) Procure and contract for goods and services, employ  
 496 personnel, and engage the services of private consultants,  
 497 actuaries, managers, legal counsel, and auditors in a manner  
 498 determined to be necessary and appropriate by the board.  
 499 (m) Solicit and accept gifts, grants, loans, and other aids  
 500 from any source or participate in any other way in any  
 501 government program to carry out the purposes of ss. 1009.97-  
 502 1009.988 ~~ss. 1009.97-1009.984~~.  
 503 (n) Require and collect administrative fees and charges in  
 504 connection with any transaction and impose reasonable penalties,  
 505 including default, for delinquent payments or for entering into  
 506 an advance payment contract or a participation agreement on a  
 507 fraudulent basis.  
 508 (o) Procure insurance against any loss in connection with  
 509 the property, assets, and activities of the trust fund or the  
 510 board.  
 511 (p) Impose reasonable time limits on use of the benefits  
 512 provided by the prepaid program or savings program. However, any  
 513 such limitations shall be specified within the advance payment  
 514 contract or the participation agreement, respectively.  
 515 (q) Delineate the terms and conditions under which payments  
 516 may be withdrawn from the trust fund and impose reasonable fees  
 517 and charges for such withdrawal. Such terms and conditions shall  
 518 be specified within the advance payment contract or the  
 519 participation agreement.  
 520 (r) Provide for the receipt of contributions in lump sums  
 521 or installment payments.  
 522 (s) Require that purchasers of advance payment contracts or

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523 benefactors of participation agreements verify, under oath, any  
 524 requests for contract conversions, substitutions, transfers,  
 525 cancellations, refund requests, or contract changes of any  
 526 nature. Verification shall be accomplished as authorized and  
 527 provided for in s. 92.525(1) (a).

528 (t) Delegate responsibility for administration of one or  
 529 both of the comprehensive investment plans required in s.  
 530 1009.973 to persons the board determines to be qualified. Such  
 531 persons shall be compensated by the board.

532 (u) Endorse insurance coverage written exclusively for the  
 533 purpose of protecting advance payment contracts, and  
 534 participation agreements, and the purchasers, benefactors, and  
 535 beneficiaries thereof, including group life policies and group  
 536 disability policies, which are exempt from the provisions of  
 537 part V of chapter 627.

538 (v) Form strategic alliances with public and private  
 539 entities to provide benefits to the prepaid program, savings  
 540 program, and participants of either or both programs.

541 (w) Solicit proposals and contract, pursuant to s. 287.057,  
 542 for the marketing of the prepaid program or the savings program,  
 543 or both together. Any materials produced for the purpose of  
 544 marketing the prepaid program or the savings program shall be  
 545 submitted to the board for review. No such materials shall be  
 546 made available to the public before the materials are approved  
 547 by the board. Any educational institution may distribute  
 548 marketing materials produced for the prepaid program or the  
 549 savings program; however, all such materials shall be approved  
 550 by the board prior to distribution. Neither the state nor the  
 551 board shall be liable for misrepresentation of the prepaid

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552 program or the savings program by a marketing agent.

553 (x) Establish other policies, procedures, and criteria to  
 554 implement and administer the provisions of ss. 1009.97-1009.988  
 555 ~~ss. 1009.97-1009.984~~.

556 (y) Adopt procedures to govern contract dispute proceedings  
 557 between the board and its vendors.

558 (z) Amend board contracts to provide Florida ABLE, Inc., or  
 559 the Florida ABLE program with contractual services.

560 Section 5. This act shall take effect upon becoming a law.



**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 Appropriations Subcommittee on Education

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BILL: CS/SB 644

INTRODUCER: Banking and Insurance Committee and Senator Benacquisto

SUBJECT: Florida ABLE Program Trust Fund/State Board of Administration

DATE: March 2, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 644 creates the Florida ABLE Program Trust Fund (trust fund) within the State Board of Administration (SBA). The trust fund will hold appropriations and moneys acquired from private sources or other governmental sources for the Florida ABLE program. The trust fund will also hold ABLE account moneys.

This bill has no fiscal impact.

CS/SB 644 is contingent upon CS/SB 642 or similar legislation becoming law and will become effective on the same date.

**II. Present Situation:**

**Trust Funds**

Section 19(f), Art. III of the State Constitution, requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than 4 years after the initial creation unless recreated.

## **Federal ABLE Act**

The federal ABLE Act (Achieving a Better Life Experience Act of 2014) became law on December 19, 2014. The ABLE Act permits a state to implement a qualified ABLE program and establish ABLE accounts for individuals with disabilities that meet certain criteria and are deemed “eligible individuals.” A designated beneficiary of an ABLE account is an eligible individual who establishes an ABLE account and is the owner of such of an account.<sup>1</sup> The provisions of the ABLE Act are effective for taxable years beginning after December 31, 2014.

## **Florida ABLE Program**

CS/SB 642 requires the Florida Prepaid College Board (Prepaid Board) to create the Florida ABLE, Inc., as a direct support organization organized as a not-for-profit corporation. Florida ABLE, Inc., would establish and administer the Florida ABLE Program. The board of directors of Florida ABLE, Inc., would be comprised of the chair of the Prepaid Board, two appointees (one by the Governor and one by the Prepaid Board) with expertise in accounting, risk management or investment management, and two appointees, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, who are advocates for individuals with disabilities, one of whom is an advocate for individuals with developmental disabilities. The bill provides that the Florida ABLE, Inc., would operate under a contract with the Prepaid Board.

Individuals who participate in the Florida ABLE Program must meet certain requirements. Under the provisions of CS/SB 642, a designated beneficiary is an eligible individual who established an ABLE account or an eligible individual to whom an ABLE account was transferred.

A person is an eligible individual for an ABLE account for a taxable year if during such taxable year:

- The person is entitled to benefits based on blindness or disability under title II or XVI of the Social Security Act, and such blindness or disability occurred before the date on which the individual attained age 26; or
- A disability certification with respect to the person is filed with the Secretary of the Department of Treasury for such taxable year.

The Florida ABLE Program would operate under a participation agreement between Florida ABLE, Inc., and a participant in the Florida ABLE Program.

Under the Florida ABLE Program, eligible individuals with disabilities, family members and others can contribute funds to an ABLE account without affecting the designated beneficiary’s eligibility for state and federal benefits, such as SSI and Medicaid. Those funds can be used for qualified disability expenses relating to the individual’s blindness or disability. These expenses would include education, housing, transportation, employment support, health, prevention, wellness, financial, and legal expenses, and other expenses authorized through federal

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<sup>1</sup> A designated beneficiary may also be a brother, sister, stepbrother, or stepsister of a former designated beneficiary of the ABLE account, provided such new designated beneficiary is also an eligible individual.

regulations. Funds placed in the ABLE program would supplement, rather than supplant, benefits provided through state and federal programs, earnings, and other sources.

### III. Effect of Proposed Changes:

**Section 1** creates the Florida ABLE Program Trust Fund within the State Board of Administration. The trust fund will hold appropriations and moneys acquired from private sources or other governmental sources for the Florida ABLE program. The trust fund will also hold moneys held in individual ABLE accounts. The priority of expending trust fund assets is first to make payment to, or on behalf of, designated beneficiaries of the Florida ABLE program and then to pay administrative and operations costs of the Florida ABLE program.

Trust fund assets may be maintained, expended, and invested only to carry out the purposes of Florida ABLE program. Florida ABLE may, however, make investments in bonds, notes, or other obligations of the state, a state agency, or instrumentality of the state. Any year-end balance remains in the trust fund. Trust fund assets are exempt from the investment requirements of s. 17.57, F.S., and may be invested pursuant to s. 215.47, F.S.

The trust fund terminates on October 1, 2019, as required by s. 19(f)(2), Art. III of the Florida Constitution. Prior to termination, the trust fund will be reviewed by the State Board of Administration and the Governor who will recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or be re-created.

**Section 2** provides that the bill will take effect on the same date as CS/SB 642 or similar legislation if such legislation is adopted in the same legislative session, or an extension of the same session, and becomes law. The effective date of CS/SB 642 is upon becoming a law.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

Article II, subsection 19(f) of the Florida Constitution prohibits the Legislature from creating or re-creating a trust fund unless the trust fund is created or re-created by law and approved by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

State trust funds must terminate within 4 years after the effective date of the act authorizing the initial creation of the trust fund. Once re-created, a trust fund remains in existence indefinitely.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1009.988 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

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

**CS by Banking and Insurance on January 17, 2015:**

The CS renames the trust fund created by the bill the Florida ABLE Program Trust Fund to avoid confusion with the Florida Endowment Foundation for Vocational Rehabilitation, which is also known as “The Able Trust.”

## B. Amendments:

None.

By the Committee on Banking and Insurance; and Senator Benacquisto

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A bill to be entitled

An act relating to trust funds; creating s. 1009.988, F.S.; creating the Florida ABLE Program Trust Fund within the State Board of Administration; authorizing sources of funds; specifying the purpose of the trust fund and authorized uses of the assets; providing for future review and termination or re-creation of the trust fund; providing a directive to the Division of Law Revision and Information; providing a contingent effective date.

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

Section 1. Section 1009.988, Florida Statutes, is created to read:

1009.988 Florida ABLE Program Trust Fund.—

(1) The Florida ABLE Program Trust Fund is created within the State Board of Administration.

(2) The Florida ABLE Program Trust Fund shall consist of appropriations, moneys acquired from other governmental or private sources for the Florida ABLE program, and moneys remitted in accordance with participation agreements. Assets held in the trust fund may be expended only to carry out the purposes of the Florida ABLE program.

(a) Any balance in the trust fund at the end of a fiscal year shall remain in the trust fund and shall be available for carrying out the purpose of the Florida ABLE program. Assets held in the trust fund are exempt from the investment requirements of s. 17.57 and may be invested pursuant to s.

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215.47.

(b) Assets held in the trust fund shall be maintained, invested, and expended solely for the purposes of the Florida ABLE program and may not be loaned, transferred, or otherwise used by the state for any purpose other than the Florida ABLE program. This paragraph does not prohibit Florida ABLE, Inc., from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state or an agency or instrumentality of the state. Unless otherwise specified by Florida ABLE, Inc., assets held in the trust fund shall be expended in the priority of making payments to, or on behalf of, designated beneficiaries and then paying for the costs of administration and operations for the Florida ABLE program.

(3) In accordance with s. 19(f)(2), Art. III of the State Constitution, unless terminated sooner, the Florida ABLE Program Trust Fund shall be terminated 4 years after the effective date of this act. Before its scheduled termination, the trust fund shall be reviewed as provided under s. 215.3206(1) and (2).

Section 2. The Division of Law Revision and Information is directed to replace the phrase "4 years after the effective of this act" where it occurs in this act with the date the act becomes a law.

Section 3. This act shall take effect on the same date that SB 642 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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**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 Appropriations Subcommittee on Education

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BILL: CS/SB 152

INTRODUCER: Education Pre-K - 12 Committee and Senator Ring

SUBJECT: Disability Awareness

DATE: March 3, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bailey</u>	<u>Klebacha</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 152 requires district school boards to annually provide disability history and awareness instruction in all K-12 public schools, during the first 2 weeks in October, beginning with the 2016-2017 school year. The required disability awareness instruction must be integrated into the existing school curriculum and be augmented by presentations from individuals who have a disability, who are approved by the school or school district, and who meet existing background screening requirements.

The bill requires each public school in Florida to establish a disability history and awareness advisory council and provides requirements for the council regarding membership, responsibilities, and frequency of annual meetings.

The district costs associated with the required disability awareness instruction would be paid from existing Florida Education Finance Program (FEFP) funds or other local sources. No additional state funds would be needed.

The bill takes effect July 1, 2015.

## II. Present Situation:

According to the United States Census Bureau, one in five (19 percent or approximately 54 million) people living in the United States have a disability. Five percent of children between the age of 5 and 17 have a disability.<sup>1</sup>

The 2008 Legislature authorized district school boards to designate the first two weeks in October as "Disability History and Awareness Weeks."<sup>2</sup> Florida law authorizes each district school board to provide disability history and awareness instruction to students in kindergarten through grade 12. The instruction may be integrated into the existing school curriculum, and the goals of the instruction must be to achieve better treatment for individuals with disabilities, encourage individuals with disabilities to develop increased self-esteem, and reaffirm the local, state, and federal commitment to the full inclusion in society of, and the equal opportunity for, all individuals with disabilities. Qualified school personnel or knowledgeable guest speakers may deliver disability history and awareness instruction.

To facilitate the implementation of the law, the Bureau of Exceptional Education and Student Services, within the Florida Department of Education (DOE), created a resource guide to help school districts promote Disability History and Awareness Weeks.<sup>3</sup> The guide includes:

- Promotional ideas to help schools promote disability history and awareness;
- Fliers recognizing the contributions of various individuals with disabilities;
- Disability etiquette documents;
- Documents concerning "people first" language;
- A guide to differentiated instruction;
- A copy of "A Legislative History of Florida's Exceptional Student Education Program;" and
- A list of websites that contain a variety of games, activities, and lesson plans that can be integrated into a curriculum for students.<sup>4</sup>

## III. Effect of Proposed Changes:

The bill requires district school boards to annually provide disability history and awareness instruction in all K-12 public schools beginning with the 2016-2017 school year, and requires each public school to create a new advisory council. Specifically, the bill establishes new instructional and advisory council requirements.

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<sup>1</sup> United States Census Bureau, *Profile America Facts for Features: 20<sup>th</sup> Anniversary of American with Disabilities Act: July 26* (May 26, 2010 based on 2005 report), available at [http://www.census.gov/newsroom/releases/archives/facts\\_for\\_features\\_special\\_editions/cb10-ff13.html](http://www.census.gov/newsroom/releases/archives/facts_for_features_special_editions/cb10-ff13.html) (last visited Feb. 10, 2015).

<sup>2</sup> Section 1, ch. 2008-156, L.O.F.; s. 1003.4205(1), F.S.

<sup>3</sup> Bureau of Exceptional Education and Student Services, Department of Education, *Disability History and Awareness: A Resource Guide* (2010), available at <http://www.fldoe.org/core/fileparse.php/7674/urlt/0064490-dha-resource2010.pdf>, at 9 of 95.

<sup>4</sup> *Id.*

### **Disability History and Awareness Instruction**

The bill requires disability history and awareness instruction to be provided during the first two weeks in October beginning with the 2016-2017 school year and specifies the following additional requirements be included in such instruction:

- Events and timelines of the services to, and civil rights of, individuals who had or have disabilities; and
- Contributions of specific individuals who had or have disabilities, including the contributions of national leaders.

Through this bill, instruction must be integrated into the existing school curriculum.

Additionally, the bill adds a new requirement that the instruction be augmented by presentations from individuals who:

- Have disabilities;
- Are approved as presenters by the school or school district; and
- Meet the background screening requirements regarding entering schools and interacting with children under current law.<sup>5</sup>

### **Disability History and Awareness Advisory Council**

The bill requires each public school to create a disability history and awareness advisory council that specifically:

- Consists of seven members, including six teachers who are employed at the school and one individual with a disability from the local community.
- Performs, at a minimum, the following responsibilities:
  - Providing input to the public school regarding curriculum for disability history and awareness;
  - Assisting with locating individuals with disabilities to make presentations at schools; and
  - Submitting an annual report by August 1, 2016, and each year thereafter, to the superintendent of the school district in which the public school is located. The annual report must, at a minimum, include recommendations and policy alternatives regarding the state of disability awareness at the public school.
- Meeting at least four times each year.

The bill takes effect July 1, 2015.

## **IV. Constitutional Issues:**

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

None.

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<sup>5</sup> Section 1012.465, F.S., relates to background screening for noninstructional school district employees and contractors who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds. Such individuals must meet level 2 screening requirements as described in s. 1012.32, F.S.



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

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Florida Department of Education reported that, under CS/SB 152, the school districts will incur costs associated with conducting fingerprinting and background investigations for community members and presenters and providing administrative assistance to public schools regarding annual reports. The cost for fingerprinting and background screening is \$67 per community member and presenter per school. Teachers, in some school districts, may qualify for supplemental or stipend pay if the council meets outside regular school hours. Associated district-level costs are indeterminate,<sup>6</sup> but should be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1003.4205 of the Florida Statutes.

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<sup>6</sup> DOE legislative bill analysis for SB 152, December 10, 2014. On file with the Senate Appropriations Subcommittee on Education.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Education Pre-K-12 on February 18, 2015:**

The committee substitute changes the effective date from upon becoming a law to July 1, 2015 to avoid interrupting the current 2014-2015 school year.

- B. **Amendments:**

None.

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

581-01703-15

2015152c1

A bill to be entitled

An act relating to disability awareness; amending s. 1003.4205, F.S.; requiring, rather than authorizing, each district school board to provide disability history and awareness instruction in all K-12 public schools beginning in a specified school year; requiring presentations by certain individuals to be included in the disability history and awareness instruction; requiring each public school to establish a disability history and awareness advisory council; providing membership on the council; providing responsibilities of the council; providing meeting times for the council; providing an effective date.

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

Section 1. Section 1003.4205, Florida Statutes, is amended to read:

1003.4205 Disability history and awareness instruction.—

(1) Beginning with the 2016-2017 school year, each district school board shall may provide disability history and awareness instruction in all K-12 public schools in the district during the first 2 weeks in October each year. The district school board shall designate these 2 weeks as "Disability History and Awareness Weeks."

(2) (a) During this 2-week period, students shall may be provided intensive instruction to expand their knowledge, understanding, and awareness of individuals who had or have with disabilities; ~~the history of disability;~~ and the disability

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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rights movement. Disability history must may include the events and timelines of the development and evolution of services to, and the civil rights of, individuals who had or have with disabilities. Disability history must may also include the contributions of specific individuals who had or have with disabilities, including the contributions of acknowledged national leaders.

(b) Beginning with the 2016-2017 school year, the instruction shall may be integrated into the existing school curriculum in ways including, but not limited to, supplementing lesson plans, holding school assemblies, or providing other school-related activities. The instruction shall may be augmented by presentations from individuals who have disabilities, who have been approved by the school or school district as presenters, and who the school or school district has ensured meet the appropriate background screening requirements of s. 1012.465 to enter schools and interact with students delivered by qualified school personnel or by knowledgeable guest speakers, with a particular focus on including individuals with disabilities.

(c)1. Each public school in the state shall establish a disability history and awareness advisory council. The council at each public school shall consist of the following seven members:

a. Six teachers who are employed at the school.

b. One individual from the local community who has a disability.

2. The responsibilities of the council at each public school shall be, but are not limited to:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 a. Providing to the school input regarding the curriculum  
60 for disability history and awareness;

61 b. Assisting in locating individuals who have disabilities  
62 to make presentations at the school; and

63 c. Submitting an annual report to the superintendent of the  
64 school district in which the school is located by August 1,  
65 2016, and each year thereafter. The annual report must include,  
66 but need not be limited to, recommendations and policy  
67 alternatives regarding the state of disability awareness at the  
68 school.

69 3. The council at each public school shall meet at least  
70 four times a year and more often as needed.

71 (3) The goals of disability history and awareness  
72 instruction include:

73 (a) Better treatment for individuals who have ~~with~~  
74 disabilities, especially for youth in school, and increased  
75 attention to preventing the bullying or harassment of students  
76 who have ~~with~~ disabilities.

77 (b) Encouragement to individuals who have ~~with~~ disabilities  
78 to develop increased self-esteem, resulting in more individuals  
79 who have ~~with~~ disabilities gaining pride in being an individual  
80 with a disability, obtaining postsecondary education, entering  
81 the workforce, and contributing to their communities.

82 (c) Reaffirmation of the local, state, and federal  
83 commitment to the full inclusion in society of, and the equal  
84 opportunity for, all individuals who have ~~with~~ disabilities.

85 Section 2. This act shall take effect July 1, 2015.

**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.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

**BILL:** SB 7030

**INTRODUCER:** Committee on Higher Education

**SUBJECT:** Postsecondary Education for Students with Disabilities

**DATE:** March 2, 2015      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Graf	Klebacha		<b>HE Submitted as Committee Bill</b>
1.	Sikes	Elwell	AED	<b>Favorable</b>
2.			AP	
3.				

**I. Summary:**

SB 7030 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.

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 to offer FPCTPs, and duties and responsibilities for the statewide coordinating center to implement the bill’s provisions.

The bill creates the Florida Center for Students with Unique Abilities and assigns the center with specific responsibilities. The bill also creates the FPCTP Scholarship with a maximum allowable award which will be as specified annually in the General Appropriations Act. The specific appropriation for these programs will be determined by the Legislature in the General Appropriations Act.

The bill takes effect upon becoming a law.

## II. Present Situation:

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

### Federal Law

#### *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
- 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.

<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.*

<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).

- 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> After submitting the electronic application, the institution must mail the signed signature page to the USDOE and submit, via email, a detailed description of the program along with supporting documents.<sup>7</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>8</sup> The estimated timeframe for federal approval ranges between 3 and 6 months, depending on the quality of the application.<sup>9</sup>

Thirty-three institutions in 14 states offer CTP programs that are approved to participate in federal student aid programs.<sup>10</sup> Southeastern University located in Lakeland, Florida, previously offered a CTP program that received approval for participation in federal student aid programs,<sup>11</sup> but does not currently offer the CTP program.<sup>12</sup> As a result, currently, there is no public or private institution of higher education in Florida that offers a CTP program that is federally approved for participation in federal student aid programs.<sup>13</sup> However, Florida Panhandle Technical College located in Chipley, Florida, has submitted its application to the USDOE for federal student aid approval for the college's Project Independence program and the University of North Florida is working on its application for federal approval.<sup>14</sup>

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<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> *Id.*

<sup>8</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>9</sup> 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), at 18 of 85.

<sup>10</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 Feb. 10, 2015).

<sup>11</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 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/060611TitleIVEligInstComprehensiveTransition.html> (last visited Feb. 10, 2015).

<sup>12</sup> Telephone interview with Office of Program Policy Analysis and Government Accountability staff (Feb. 5, 2015).

<sup>13</sup> *Id.*

<sup>14</sup> Email, Office of Program Policy Analysis and Government Accountability (Feb. 5, 2015), on file with the Committee on Higher Education staff.

### **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>15</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>16</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>17</sup>

### ***Transition Programs for Students with Intellectual Disabilities (TPSID) Grant***

The USDOE provides TPSID grants to institutions of higher education or consortia of institutions of higher education to enable the institutions to create or expand high quality, inclusive model CTP programs for students with intellectual disabilities.<sup>18</sup> The duration of TPSID grant funding for CTP programs is 5 years.<sup>19</sup> TPSID grants were first awarded during fiscal year 2010.<sup>20</sup> Over \$10.5 million was awarded under TPSID grants to 27 two- and four-year institutions of higher education or consortia of institutions, located in 23 states.<sup>21</sup> The 27 institutions included University of South Florida St. Petersburg, which received a TPSID grant in the amount of \$421,269 for the 2010 fiscal year.<sup>22</sup> No new awards were made during fiscal year 2011 through fiscal year 2014.<sup>23</sup> Since initially awarding the TPSID grants in fiscal year 2010, funds have been awarded only for non-competing continuation grants.<sup>24</sup>

<sup>15</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 Feb. 10, 2015); see also 34 C.F.R. ss. 668.233 and 668.32.

<sup>16</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>17</sup> 34 C.F.R. s. 668.233(c).

<sup>18</sup> U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/index.html> (last visited Feb. 10, 2015).

<sup>19</sup> 20 U.S.C. s. 1140g(a)(3). The Transition Programs for Students with Intellectual Disabilities (TPSID) grant expires on September 30, 2015. 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 6 of 29.

<sup>20</sup> U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/awards.html> (last visited Feb. 10, 2015).

<sup>21</sup> U.S. Department of Education, *U.S. Secretary of Education Duncan announces \$10.9 Million in Awards Under New Programs That Help Students With Intellectual Disabilities Transition to Postsecondary Education* (Oct. 5, 2010), <http://www.ed.gov/news/press-releases/us-secretary-education-duncan-announces-109-million-awards-under-new-programs-he> (last visited Feb. 10, 2015).

<sup>22</sup> *Id.* The University of South Florida St. Petersburg, partnered with the University of North Florida and Lynn University to form the Consortium on Postsecondary Education and Intellectual Disabilities and applied for the TPSID grant. Florida Consortium on Postsecondary Education and Intellectual Disabilities, *About the Consortium*, available at <http://fltpsid.info/About.php> (last visited Feb. 10, 2015).

<sup>23</sup> U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/awards.html> (last visited Feb. 10, 2015).

<sup>24</sup> *Id.*



Currently, the 27 programs funded by TPSID grants are offered on 44 college or university campuses.<sup>25</sup> Some of the programs operate on only one campus while other programs operate as a consortium of institutions of higher education.<sup>26</sup>

An institution or consortium that receives a TPSID grant must use the TPSID grant funds to establish a model CTP program for students with intellectual disabilities that:<sup>27</sup>

- Serves students with intellectual disabilities;
- Provides supports and services for academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the IHE's regular postsecondary program;
- Focuses on academic enrichment, socialization, independent living skills, including self-advocacy skills, and integrated work experiences and career skills that lead to gainful employment;
- Integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;
- Participates with the coordinating center in the evaluation of the model program;
- Partners with one or more local educational agencies (LEAs) to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA);
- Plans for the sustainability of the model program after the end of the grant period; and
- Creates and offers a meaningful credential<sup>28</sup> for students with intellectual disabilities upon completion of the model program.

### ***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>29</sup> The National Center is responsible for:<sup>30</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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<sup>25</sup> Think College! *National Coordinating Center*, <http://www.thinkcollege.net/about-us/think-college-grant-projects/national-coordinating-center> (last visited Feb. 10, 2015).

<sup>26</sup> *Id.*

<sup>27</sup> 20 U.S.C. s. 1140g(d).

<sup>28</sup> An institution of higher education that receives TPSID grant funds is responsible for developing a meaningful credential for students with intellectual disabilities who complete a model CTP program. Think College! *Fast Facts: Current Status of Meaningful Credentials for Students with Intellectual Disabilities Attending TPSID Model Demonstration Programs* (2014), available at [http://www.thinkcollege.net/images/stories/CredentialFF5\\_F.pdf](http://www.thinkcollege.net/images/stories/CredentialFF5_F.pdf), at 1 of 2.

<sup>29</sup> 20 U.S.C. s. 1140q(a).

<sup>30</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>31</sup>

In October 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>32</sup> Think College is a project of the Institute for Community Inclusion at the University of Massachusetts, Boston.<sup>33</sup>

## **State Law**

### ***Access to Traditional Postsecondary Education Programs for Students with Disabilities***

A student with a disability is “eligible for reasonable substitution for any requirement for admission into a public postsecondary educational institution” if the student can provide documentation that the student’s failure to meet the admission requirement is related to a disability.<sup>34</sup> Florida law also allows for “reasonable substitutions for any requirement for graduation, for admission into a program of study, or for entry into the upper division,” so long as such substitutions do not constitute a fundamental alteration in the nature of the program.<sup>35</sup>

To be eligible for state financial aid awards, students must meet specified eligibility criteria<sup>36</sup> including, but not limited to, minimum number of credit hours per term or the equivalent. For instance, state student assistance grants through the Florida Public Student Assistance Grant Program requires students to enroll in a degree program and take a minimum of 6 semester hours or the equivalent per term.<sup>37</sup>

Such program and state financial aid requirements, while preserving program integrity, may present limited opportunities to certain students with disabilities, such as students with intellectual disabilities, to fully experience campus life and earn a meaningful credential that may help the students secure gainful employment.

### ***Other Postsecondary Options for Students with Disabilities***

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, 17 such non-traditional postsecondary programs are available to

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<sup>31</sup> 20 U.S.C. s. 1140q(b) and i(b).

<sup>32</sup> Think College! *National Coordinating Center*, <http://www.thinkcollege.net/about-us/think-college-grant-projects/national-coordinating-center> (last visited Feb. 10, 2015).

<sup>33</sup> Think College! *College Options for People with Intellectual Disabilities*, <http://www.thinkcollege.net/> (last visited Feb. 10, 2015).

<sup>34</sup> Section 1007.264, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

<sup>35</sup> Section 1007.265, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

<sup>36</sup> Sections 1009.40, F.S.

<sup>37</sup> The eligibility status of each student to receive the Florida Public Student Assistance Grant Program award is determined by each institution. Section 1009.50(2) and (4)(c), F.S.

students with developmental disabilities<sup>38</sup> in Florida.<sup>39</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>40</sup> Program components include auditing postsecondary courses, enrolling in vocational courses, and participating in campus life and job training programs.<sup>41</sup> Of the 17 programs:

- Nine programs are available to students with developmental disabilities who are no longer enrolled in school district exceptional student education (ESE) programs. These programs are offered by 2 state universities (University of South Florida and University of North Florida); 1 private not-for-profit private university (Nova Southeastern University); 3 state or community colleges (Florida State College at Jacksonville, Santa Fe College, and Tallahassee Community College); and 2 technical centers (Brewster Technical College and Florida Panhandle Technical College). In Fall 2014, 201 students were enrolled in these programs. Program costs<sup>42</sup> to students range from \$0 to \$10,000 per year. "While not eligible for federal [student financial] aid, students [enrolled in these programs] can receive some assistance to offset the costs of these programs."<sup>43</sup> The sources of funding include funds from Florida's vocational rehabilitation program, institutional funding, local grant programs, and other social service agencies.<sup>44</sup> During the 2013-2014 academic year, 125 students graduated from 6 of the 9 programs. 33 percent of the students who graduated were employed and 6 percent of the graduates received industry certifications and were pursuing other postsecondary options or pursuing a GED. No outcome data is available for the remaining 59 percent of the students.<sup>45</sup>

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<sup>38</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>39</sup> Some of the 17 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).

<sup>40</sup> Telephone interview with Office of Program Policy Analysis and Government Accountability staff (Feb. 5, 2015).

<sup>41</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>42</sup> Program costs include base tuition only and do not include the cost of the residential option for the program which ranges from \$11,000-\$14,000 per year in addition to tuition. 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), at 17 of 85.

<sup>43</sup> Email, Office of Program Policy Analysis and Government Accountability (Feb. 5, 2015), on file with the Committee on Higher Education staff.

<sup>44</sup> *Id.*

<sup>45</sup> 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), at 20 of 85.

- Eight programs are available to students with developmental disabilities, through age 21,<sup>46</sup> who are still enrolled in school district ESE programs and receiving ESE services.<sup>47</sup> These programs are offered by 3 state universities (Florida Atlantic University, University of South Florida, and Florida International University), 1 not-for-profit private university (Warner University), and 4 state of community colleges (Florida Keys Community College, Indian River State College, Miami Dade College, and Polk State College). In Fall 2014, 71 students were enrolled in these programs. Students enrolled in such programs are not responsible for paying program costs because the students receive school district ESE services.<sup>48</sup> During the 2013-2014 academic year, 14 students graduated from 3 of the 8 programs. 67 percent of the students who graduated were employed including 1 graduate who was employed and enrolled in a postsecondary program. 13 percent of the graduates were as enrolled in a postsecondary education program and no outcome is available for the remaining 20 percent of the students.<sup>49</sup>

None of the 17 programs award college credit or a college degree.<sup>50</sup> In some instances, students with developmental disabilities complete courses that may be applied toward a workforce credential.<sup>51</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>52</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>53</sup>

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<sup>46</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 14 of 29.

<sup>47</sup> 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), at 22 of 85.

<sup>48</sup> Florida International University requires students enrolled in the Project Panther LIFE program to be Vocational Rehabilitation clients to receive Vocational Rehabilitation funds toward Project Panther LIFE program costs. Similarly, University of South Florida St. Petersburg, requires students enrolled in Project STING RAY to be Vocational Rehabilitation clients to offset Project STING RAY program costs. Telephone interview with Office of Program Policy Analysis and Government Accountability staff (Feb. 5, 2015).

<sup>49</sup> 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), 22 of 85.

<sup>50</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.

<sup>51</sup> *Id.*

<sup>52</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>53</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.

### III. Effect of Proposed Changes:

The bill 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 to offer FPCTPs, and duties and responsibilities for the statewide coordinating center to implement bill provisions.

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

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. In addition to the federal requirements, to address the legislative purpose and intent, an eligible institution<sup>54</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.
- 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.

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<sup>54</sup> SB 7030 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.

### ***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 application<sup>55</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>56</sup> and state FPCTP requirements. Notwithstanding current processes for program approval,<sup>57</sup> the center director must 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.

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>58</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.

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<sup>55</sup> SB 7030 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>56</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>57</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>58</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 Feb. 4, 2015).

### **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>59</sup>
- Physically attend<sup>60</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>61</sup> which may include an individualized plan for employment (IPE)<sup>62</sup> or a diagnosis by a licensed physician<sup>63</sup> or a licensed psychologist.<sup>64</sup>

### **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>65</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>66</sup>

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<sup>59</sup> 20 U.S.C. s. 1140(2).

<sup>60</sup> 34 C.F.R. s. 668.231(a)(2).

<sup>61</sup> 34 C.F.R. s. 668.233(c).

<sup>62</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>63</sup> Chapters 458 and 459, F.S.

<sup>64</sup> Chapter 490, F.S.

<sup>65</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>66</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.

- 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 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 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 FPCTP provisions including, but not limited to, recommending approval or disapproval of programs; creating an application for program approval and renewal; disbursing FPCTP Scholarship funds to institutions for awards to eligible students; collaborating with the National Coordinating Center (i.e., Think College) to develop guidelines for statewide implementation of comprehensive transition programs; and 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.
- 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 to share successful practices and address issues or concerns.
  - Facilitating collaboration between institutions and school districts, private schools, and parents of students enrolled in home education programs.
  - Assisting institutions with state and federal applications for approval of comprehensive transition programs.
  - Assisting institutions with the identification of funding sources for FPCTPs and financial assistance for students enrolled in FPCTPs.
  - 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 including, but not limited to, information related to the approval and disapproval of applications and reasons for



- disapproval and no action, and FPCTP Scholarships awarded and undisbursed advances remitted to the statewide coordinating center.
- The student and program performance indicators identified by the statewide coordinating center and performance information submitted by the institutions to the center.
  - The projected number of students with intellectual disabilities who may enroll in FPCTPs within the next academic year.
  - 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 2015-2016 fiscal year.

The bill takes effect upon becoming a law.

## **IV. Constitutional Issues:**

### A. Municipality/County Mandates Restrictions:

None.

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

None.

### C. Trust Funds Restrictions:

None.

## **V. Fiscal Impact Statement:**

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

SB 7030 authorizes Florida Postsecondary Comprehensive Transition Program (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.

### C. Government Sector Impact:

The bill creates the Florida Center for Students with Unique Abilities and assigns the center with specific responsibilities. The estimated annual cost for the center to perform the responsibilities outlined in the bill is approximately \$1 million. The bill also creates

the FPCTP Scholarship with a maximum allowable award which will be as specified annually in the General Appropriations Act. Scholarship awards, as authorized, must be prorated if funds are not adequate to provide the maximum allowable award to each eligible student.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1004.6501 of the Florida Statutes.

**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.

By the Committee on Higher Education

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1 A bill to be entitled  
 2 An act relating to postsecondary education for  
 3 students with disabilities; creating s. 1004.6501,  
 4 F.S.; providing a short title; providing purposes and  
 5 legislative intent; defining terms; establishing  
 6 eligibility requirements for enrollment in the Florida  
 7 Postsecondary Comprehensive Transition Program;  
 8 requiring eligible institutions to make student  
 9 eligibility determinations; establishing the Florida  
 10 Center for Students with Unique Abilities; specifying  
 11 the duties of the center and the center director;  
 12 specifying application requirements for initial  
 13 approval and renewal of approval; requiring an  
 14 eligible institution with an approved program to  
 15 submit an annual report to the center by a specified  
 16 date; establishing a Florida Postsecondary  
 17 Comprehensive Transition Program Scholarship for  
 18 certain qualified students; specifying the  
 19 requirements for a student to maintain eligibility for  
 20 the scholarship; providing for the distribution of  
 21 scholarship funds; requiring an eligible institution  
 22 to report certain data and information to the center;  
 23 requiring an eligible institution to certify and  
 24 report the amount of funds disbursed and undisbursed  
 25 advances to the center by a specified date; requiring  
 26 the center, with the Board of Governors and the State  
 27 Board of Education, to identify program progress and  
 28 performance indicators; requiring an annual report to  
 29 the Governor, the President of the Senate, the Speaker

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30 of the House of Representatives, the Chancellor of the  
 31 State University System, and the Commissioner of  
 32 Education by a specified date; requiring the center,  
 33 with other stakeholders, to submit to the Governor,  
 34 the President of the Senate, and the Speaker of the  
 35 House of Representatives statutory or budget  
 36 recommendations for the program; requiring the Board  
 37 of Governors and the State Board of Education, in  
 38 consultation with the center, to adopt regulations and  
 39 rules; providing an effective date.

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

42  
 43 Section 1. Section 1004.6501, Florida Statutes, is created  
 44 to read:

45 1004.6501 Florida Postsecondary Comprehensive Transition  
 46 Program and the Florida Center for Students with Unique  
 47 Abilities.-

48 (1) SHORT TITLE.-This section shall be known and may be  
 49 cited as the "Florida Postsecondary Comprehensive Transition  
 50 Program Act."

51 (2) PURPOSE AND LEGISLATIVE INTENT.-The purpose of this  
 52 section is to increase independent living, inclusive and  
 53 experiential postsecondary education, and employment  
 54 opportunities for students with intellectual disabilities  
 55 through degree, certificate, or nondegree programs and to  
 56 establish statewide coordination of the dissemination of  
 57 information regarding programs and services for students with  
 58 disabilities. It is the intent of the Legislature that students

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59 with intellectual disabilities and students with disabilities  
 60 have access to meaningful postsecondary education credentials  
 61 and a meaningful campus experience.

62 (3) DEFINITIONS.—As used in this section, the term:

63 (a) "Center" means the Florida Center for Students with  
 64 Unique Abilities established under subsection (5).

65 (b) "Director" means the director of the center.

66 (c) "Eligible institution" means a state university; a  
 67 Florida College System institution; a career center; a charter  
 68 technical career center; or an independent college or university  
 69 that is located and chartered in this state, is not for profit,  
 70 is accredited by the Commission on Colleges of the Southern  
 71 Association of Colleges and Schools, and is eligible to  
 72 participate in the William L. Boyd, IV, Florida Resident Access  
 73 Grant Program.

74 (d) "Florida Postsecondary Comprehensive Transition Program  
 75 Scholarship" or "scholarship" means the scholarship established  
 76 under this section to provide state financial assistance awards  
 77 to students who meet the student eligibility requirements  
 78 specified in subsection (4) and are enrolled in an FPCTP.

79 (e) "FPCTP" means a Florida Postsecondary Comprehensive  
 80 Transition Program that is approved pursuant to paragraph (5)(b)  
 81 and offered by an eligible institution.

82 (f) "Transitional student" means a student who is 18 to 26  
 83 years of age and meets the student eligibility requirements  
 84 specified in subsection (4).

85 (4) STUDENT ELIGIBILITY.—To be eligible to enroll in an  
 86 FPCTP at an eligible institution, a student must, as determined  
 87 by the institution, based on guidelines established by the

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88 center:

89 (a) Be a "student with an intellectual disability" as that  
 90 term is defined in 20 U.S.C. s. 1140(2), including, but not  
 91 limited to, a transitional student.

92 (b) Physically attend the eligible institution.

93 (c) Submit to the eligible institution documentation  
 94 regarding his or her intellectual disability. Such documentation  
 95 may include, but not be limited to, a current individualized  
 96 plan for employment associated with an evaluation completed  
 97 pursuant to s. 413.20(3) or a diagnosis from a physician who is  
 98 licensed under chapter 458 or chapter 459 or a psychologist  
 99 licensed under chapter 490.

100 (5) CENTER RESPONSIBILITIES.—The Florida Center for  
 101 Students with Unique Abilities is established within the  
 102 University of Central Florida. At a minimum, the center shall:

103 (a) Disseminate information to students with disabilities  
 104 and their parents, including, but not limited to:

105 1. Education programs, services, and resources that are  
 106 available at eligible institutions.

107 2. Supports, accommodations, technical assistance, or  
 108 training provided by eligible institutions, the advisory council  
 109 established pursuant to s. 383.141, and regional autism centers  
 110 established pursuant to s. 1004.55.

111 3. Mentoring, networking, and employment opportunities.

112 (b) Coordinate and facilitate the statewide implementation  
 113 of this section. The director of the center shall oversee the  
 114 approval of the comprehensive transition programs.

115 Notwithstanding the program approval requirements of s. 1004.03,  
 116 the director shall review applications for the initial approval

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117 of an application for, or renewal of approval of, a  
 118 comprehensive transition program proposed by an eligible  
 119 institution. Within 30 days after receipt of an application, the  
 120 director shall issue his or her recommendation regarding  
 121 approval to the Chancellor of the State University System or the  
 122 Commissioner of Education, as applicable, or shall give written  
 123 notice to the applicant of any deficiencies in the application,  
 124 which the eligible institution must be given an opportunity to  
 125 correct. Within 15 days after receipt of a notice of  
 126 deficiencies, the eligible institution shall, if the eligible  
 127 institution seeks program approval, correct the application  
 128 deficiencies and return the application to the center. Within 30  
 129 days after receipt of a revised application, the director shall  
 130 recommend approval or disapproval of the revised application to  
 131 the chancellor or the commissioner, as applicable. Within 15  
 132 days after receipt of the director's recommendation for approval  
 133 or disapproval, the chancellor or the commissioner shall approve  
 134 or disapprove the recommendation. If the chancellor or the  
 135 commissioner does not take action on the director's  
 136 recommendation within 15 days after receipt of such  
 137 recommendation, the comprehensive transition program proposed by  
 138 the institution shall be considered an FPCTP by default.  
 139 Additionally, the director shall:  
 140 1. Consult and collaborate with the National Center and the  
 141 Coordinating Center, as identified in 20 U.S.C. s. 1140g,  
 142 regarding guidelines established by the center for effective  
 143 implementation of the programs for students with disabilities  
 144 and for students with intellectual disabilities which align with  
 145 the federal requirements and standards, quality indicators, and

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146 benchmarks identified by the National Center and the  
 147 Coordinating Center.  
 148 2. Consult and collaborate with the Higher Education  
 149 Coordinating Council to identify meaningful credentials for  
 150 FPCTPs and to engage businesses and stakeholders to promote  
 151 experiential training and employment opportunities for students  
 152 with intellectual disabilities.  
 153 3. Create the application for the initial approval and  
 154 renewal of approval as an FPCTP for use by an eligible  
 155 institution which, at a minimum, must align with the federal  
 156 comprehensive transition and postsecondary program application  
 157 requirements.  
 158 4. Establish requirements and timelines for the:  
 159 a. Submission and review of an application.  
 160 b. Approval or disapproval of an initial or renewal  
 161 application. Initial approval of an application for an FPCTP  
 162 that meets the requirements of subsection (6) is valid for the 3  
 163 academic years immediately following the academic year during  
 164 which the approval is granted. An eligible institution may  
 165 submit an application to the center requesting that the initial  
 166 approval be renewed. If the approval is granted and the FPCTP  
 167 continues to meet the requirements of this section, including,  
 168 but not limited to, program and student performance outcomes,  
 169 and federal requirements, a renewal is valid for the 5 academic  
 170 years immediately following the academic year during which the  
 171 renewal is initially granted.  
 172 c. Implementation of an FPCTP, beginning no later than the  
 173 academic year immediately following the academic year during  
 174 which the approval is granted.

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175 5. Administer scholarship funds.  
 176 6. Oversee and report on the implementation and  
 177 administration of this section by planning, advising, and  
 178 evaluating approved degree, certificate, and nondegree programs  
 179 and the performance of students and programs pursuant to  
 180 subsection (8).  
 181 (c) Provide technical assistance regarding programs and  
 182 services for students with intellectual disabilities to  
 183 administrators, instructors, staff, and others, as applicable,  
 184 at eligible institutions by:  
 185 1. Holding meetings and annual workshops to share  
 186 successful practices and to address issues or concerns.  
 187 2. Facilitating collaboration between eligible institutions  
 188 and school districts, private schools pursuant to s. 1002.42,  
 189 and parents of students enrolled in home education programs  
 190 pursuant to s. 1002.41 in assisting students with intellectual  
 191 disabilities and their parents to plan for the transition of  
 192 such students into an FPCTP or another program at an eligible  
 193 institution.  
 194 3. Assisting eligible institutions with state FPCTP and  
 195 federal comprehensive transition and postsecondary program  
 196 applications.  
 197 4. Assisting eligible institutions with the identification  
 198 of funding sources for an FPCTP and for student financial  
 199 assistance for students enrolled in an FPCTP.  
 200 5. Monitoring federal and state law relating to the  
 201 comprehensive transition program and notifying the Legislature,  
 202 the Governor, the Board of Governors, and the State Board of  
 203 Education of any change in law which may impact the

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204 implementation of this section.  
 205 (6) INSTITUTION ELIGIBILITY AND RESPONSIBILITIES.—  
 206 (a) To offer an FPCTP, the president or executive director  
 207 of an eligible institution, as applicable, must submit to the  
 208 center, by a date established by the center, the following:  
 209 1. An application for approval of a comprehensive  
 210 transition program proposed by the eligible institution which  
 211 must be approved by the institution's governing board and must  
 212 address the requirements of the federal comprehensive transition  
 213 and postsecondary program under 20 U.S.C. s. 1140 and the  
 214 requirements of this section, including, but not limited to:  
 215 a. Identification of a credential associated with the  
 216 proposed program, which is awarded to a student with an  
 217 intellectual disability who meets the student eligibility  
 218 requirements specified in subsection (4) upon completion of the  
 219 FPCTP.  
 220 b. The program length and design, including, at a minimum,  
 221 inclusive and successful experiential education practices  
 222 relating to curricular, assessment, and advising structure and  
 223 internship and employment opportunities which must support  
 224 students with intellectual disabilities who are seeking to  
 225 continue academic, career and technical, and independent living  
 226 instruction at an eligible institution, including, but not  
 227 limited to, opportunities to earn industry certifications, to  
 228 prepare students for gainful employment. If offering a college  
 229 credit-bearing degree program, an institution shall be  
 230 responsible for maintaining the rigor and effectiveness of a  
 231 comprehensive transition degree program at the same level as  
 232 another comparable degree program offered by the institution

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233 pursuant to the applicable accreditation standards.

234 c. The plan for students with intellectual disabilities to

235 be integrated socially and academically with nondisabled

236 students, to the maximum extent possible, and to participate on

237 not less than a half-time basis, as determined by the eligible

238 institution, with such participation focusing on academic

239 components and occurring through one or more of the following

240 activities with nondisabled students:

241 (I) Regular enrollment in credit-bearing courses offered by

242 the institution.

243 (II) Auditing or participating in courses offered by the

244 institution for which the student does not receive academic

245 credit.

246 (III) Enrollment in noncredit-bearing, nondegree courses.

247 (IV) Participation in internships or work-based training.

248 d. The plan for partnerships with businesses to promote

249 experiential training and employment opportunities for students

250 with intellectual disabilities.

251 e. Performance indicators pursuant to subsection (8) and

252 other requirements identified by the center.

253 f. A 5-year plan incorporating enrollment and operational

254 expectations for the program.

255 2. Documented evidence of a federally approved

256 comprehensive transition and postsecondary program that is

257 determined to be an eligible program for the federal student aid

258 programs and is currently offered at the institution, documented

259 evidence of the submission of an application for such federal

260 approval of a comprehensive transition and postsecondary program

261 proposed by the institution, or documentation demonstrating the

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262 commitment of the institution's governing board to submit an

263 application within the subsequent academic year for federal

264 approval of a comprehensive transition and postsecondary program

265 proposed by the institution pursuant to 20 U.S.C. s. 1140.

266 (b) An eligible institution may submit an application to

267 the center for approval pursuant to the requirements of this

268 section for implementation of the FPCTP no later than the

269 academic year immediately following the academic year during

270 which the approval is granted. An eligible institution must

271 submit a renewal application to the center no later than 3 years

272 following the year during which the approval is initially

273 granted.

274 (c) By August 1 of each year, an eligible institution that

275 has an FPCTP shall submit an annual report to the center which,

276 at minimum, for the prior academic year, addresses the following

277 performance indicators:

278 1. Efforts to recruit students in the FPCTP and the number

279 of students enrolled in the program.

280 2. Efforts to retain students in the FPCTP and the

281 retention rate of students in the program.

282 3. The completion rate of students enrolled in the FPCTP

283 and courses, as applicable.

284 4. Transition success of students who complete an FPCTP, as

285 measured by employment rates and salary levels at 1 year and 5

286 years after completion.

287 5. Other performance indicators identified by the center

288 pursuant to subsection (8).

289 (d) An eligible institution shall notify students with

290 intellectual disabilities and their parents of the student

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291 eligibility requirements specified in subsection (4) and the  
 292 scholarship requirements and eligibility requirements specified  
 293 in subsection (7).

294 (7) FLORIDA POSTSECONDRY COMPREHENSIVE TRANSITION PROGRAM  
 295 SCHOLARSHIP.—

296 (a) Beginning in the 2015-2016 academic year, the Florida  
 297 Postsecondary Comprehensive Transition Program Scholarship is  
 298 established for students who meet the student eligibility  
 299 requirements specified in subsection (4) and who are enrolled in  
 300 an FPCTP.

301 (b) To maintain eligibility to receive a scholarship, a  
 302 student must continue to meet the requirements of paragraph (a)  
 303 and must demonstrate satisfactory academic progress in the  
 304 FPCTP, as determined by the eligible institution that the  
 305 student attends, based on the indicators identified by the  
 306 center pursuant to subsection (8).

307 (c) Payment of scholarship funds shall be transmitted to  
 308 the director of the center, or to his or her designee, in  
 309 advance of the registration period. The director, or his or her  
 310 designee, shall disburse the scholarship funds to the eligible  
 311 institutions that are responsible for awarding the scholarship  
 312 to students who meet the requirements of paragraphs (a) and (b).

313 (d) During each academic term, by a date established by the  
 314 center, an eligible institution shall report to the center the  
 315 number and value of all scholarships awarded under this  
 316 subsection. Each eligible institution shall also report to the  
 317 center necessary demographic and eligibility data and other data  
 318 requested by the center for students who received the  
 319 scholarship awards.

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320 (e) By a date annually established by the center, each  
 321 eligible institution shall certify to the center the amount of  
 322 funds disbursed to each student and shall remit to the center  
 323 any undisbursed advances by June 1 of each year.

324 (f) Funding for the scholarship and the maximum allowable  
 325 award shall be as provided annually in the General  
 326 Appropriations Act. If funds appropriated are not adequate to  
 327 provide the maximum allowable award to each eligible student,  
 328 the awards may be prorated.

329 (8) ACCOUNTABILITY.—

330 (a) The center, in collaboration with the Board of  
 331 Governors and the State Board of Education, shall identify  
 332 indicators for the satisfactory progress of a student in an  
 333 FPCTP and for the performance of such programs. Each eligible  
 334 institution must address the indicators identified by the center  
 335 in its application for the approval of a proposed FPCTP and for  
 336 the renewal of an FPCTP and in the annual report that the  
 337 institution submits to the center.

338 (b) By October 1 of each year, the center shall provide to  
 339 the Governor, the President of the Senate, the Speaker of the  
 340 House of Representatives, the Chancellor of the State University  
 341 System, and the Commissioner of Education, a summary of  
 342 information including, but not limited to:

343 1. The status of the statewide coordination of FPCTPs and  
 344 the implementation of FPCTPs at eligible institutions including,  
 345 but not limited to:

346 a. The number of applications approved and disapproved and  
 347 the reasons for each disapproval and no action taken by the  
 348 chancellor or the commissioner.



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349 b. The number and value of all scholarships awarded to  
350 students and undisbursed advances remitted to the center  
351 pursuant to subsection (7).

352 2. Indicators identified by the center pursuant to  
353 paragraph (a) and the performance of each eligible institution  
354 based on the indicators identified in paragraph (6)(c).

355 3. The projected number of students with intellectual  
356 disabilities who may be eligible to enroll in the FPCTPs within  
357 the next academic year.

358 4. Education programs and services for students with  
359 intellectual disabilities which are available at an eligible  
360 institution.

361 (c) Beginning in the 2015-2016 fiscal year, the center, in  
362 collaboration with the Board of Governors, State Board of  
363 Education, Higher Education Coordinating Council, and other  
364 stakeholders, by December 1 each year, shall submit to the  
365 Governor, the President of the Senate, and the Speaker of the  
366 House of Representatives statutory or budget recommendations for  
367 improving the implementation and delivery of FPCTPs and other  
368 education programs and services for students with disabilities.

369 (9) RULES.—The Board of Governors and the State Board of  
370 Education, in consultation with the center, shall expeditiously  
371 adopt the necessary regulations and rules, as applicable, to  
372 allow the center to perform its responsibilities pursuant to  
373 this section beginning in the 2015-2016 fiscal year.

374 Section 2. This act shall take effect upon becoming a law.

**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 Appropriations Subcommittee on Education

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BILL: CS/SB 602

INTRODUCER: Appropriations Subcommittee on Education and Senator Gaetz

SUBJECT: Students With Disabilities

DATE: March 6, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hand</u>	<u>Klebacha</u>	<u>ED</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Recommend: Fav/CS</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

CS/SB 602 bill amends the Florida Personal Learning Scholarship Accounts Program (PLSA or program) by expanding the pool of eligible students, tightening program accountability requirements, streamlining program implementation, increasing the Department of Education's (DOE) responsibilities for implementation of the program, and clarifying program implementation.

Specifically, the bill:

- Expands student eligibility to include all students on the autism spectrum, per the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), and to students who are, or will be, 3 or 4 years old on or before September 1 and meet all other eligibility requirements. Establishes eligibility dates for existing students to renew and new students to apply for the PLSA program.
- Requires that authorized expenditures be for educational purposes.
- Authorizes expenditures associated with part-time private tutoring from persons meeting specified requirements (e.g., certified teacher and special skills).
- Requires that interest accrued remain in a PLSA account for the parent to use for authorized purposes.
- Requires a licensed physician to approve specialized services before being provided by an approved provider.
- Allows parents the ability to receive the scholarship funds before the beginning of the school year.
- Requires an eligible nonprofit scholarship-funding organization (SFO) to notify program participants of their annual ability to request new or revised matrix of services.
- Authorizes the Commissioner of Education to determine the length of suspensions or terminations, and determine conditions for reinstating program eligibility.

- Adds an option for parents to use PLSA funds on providers from outside the State of Florida who meet similar regulation or approval requirements to those applicable to in-state providers for specialized services.
- Expands the authorized uses of program funds to include fees for specific specialized programs, fees for an annual evaluation of educational progress, training and maintenance agreements for digital devices, and transition services provided by life coaches.
- Clarifies that kindergarten students approved via “high-risk” status must re-qualify under one of the other disability categories when he/she reaches age 6 in order to renew program participation.
- Clarifies PLSA funds may be used toward enrollment at Independent Colleges and Universities of Florida (ICUF) institutions.
- Requires the Florida Prepaid College Board (Prepaid Board) to allow program funds to be used along with other funds to purchase a prepaid college plan, be separately tracked and accounted for, and used only after private prepaid funds in the account have been exhausted.

The bill increases the number of students potentially eligible for a scholarship by including all students on the autism spectrum. An estimated 860 additional autism spectrum students could participate in the program under the expanded definition, which would cost an additional \$8.6 million. An estimated 480 three and four year-olds could be eligible to participate in the program at an additional cost of \$4.8 million. However, since scholarships awarded under the program are on a first-come, first-served basis, the number of students receiving a scholarship is limited by the funds appropriated in the General Appropriations Act.

The bill takes effect upon becoming a law.

## II. Present Situation:

The Florida Personal Learning Scholarship Accounts Program (PLSA or program) was created during the 2014 Legislative session. The PLSA program provides the option for a parent to better meet the individual needs of his or her eligible child.<sup>1</sup> A parent who applies for 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>2</sup>

### PLSA Parental Choice Options

The PLSA program provides kindergarten through grade 12 students who are a resident of this state and have a disability<sup>3</sup> with access to scholarship funds for authorized instructional materials, curriculum, specialized services by approved providers, enrollment and tuition, assessment fees, Florida Prepaid College Program contributions, and contracted services by a public school or school district.<sup>4</sup>

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<sup>1</sup> The PLSA program “does not expand the regulatory authority of Florida, its officers, or any school district to impose additional regulation on participating private schools, nonpublic postsecondary educational institutions, and private providers beyond those reasonably necessary to enforce requirements expressly set forth in this section.” Section 1002.385(17), F.S.

<sup>2</sup> The parent must apply for the program by February 1 of each year, for participation in the subsequent school year. Section 1002.385(3)(b), F.S.

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

<sup>4</sup> Section 1002.385(5), F.S.

The program provides parental choice options by delineating parent and student responsibilities, student eligibility, scholarship amounts and allowable expenditures, and parent obligations. The program also specifies implementation responsibilities of eligible nonprofit scholarship-funding organizations (SFOs), eligible private schools, the Department of Education, the Commissioner of Education, school districts, and the Auditor General.

## **Parent and Student Responsibilities**

### ***Student Eligibility***

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 is the subject of an Individual Education Plan (IEP) or has received a diagnosis of a disability from a licensed physician or psychologist.<sup>5</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.; or Spina bifida, as defined in s. 393.063(36), F.S.; and for a student in kindergarten, being a high-risk child, as defined in s. 393.063(20)(a), F.S.; and Williams syndrome.<sup>6</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>7</sup> Thus, this definition of autism requires that a student exhibit severe and substantial deficits in certain areas.<sup>8</sup>

A student is not eligible for the PLSA program:

- While enrolled in a public school<sup>9</sup> or a school providing services to youth in the Department of Juvenile Justice program;<sup>10</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>11</sup>

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<sup>5</sup> Section 1002.385(3)(a), F.S.

<sup>6</sup> Section 1002.385(2)(d), F.S.

<sup>7</sup> Section 393.063(3), F.S.

<sup>8</sup> Email, Agency for Persons with Disabilities (Dec. 15, 2014).

<sup>9</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>10</sup> Section 1002.385(4)(a)2., F.S.

<sup>11</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.

- 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>12</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>13</sup>

### ***Scholarship Amount and Allowable Expenditures***

The maximum scholarship amount is determined by several factors and calculations.<sup>14</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>15</sup> The scholarship funds are not released to SFOs<sup>16</sup> until after the Department of Education (DOE or Department) verifies that the student is not attending public schools based upon the October student count.<sup>17</sup> The amount of payment can be adjusted upon request of the parent every three years to reevaluate the matrix.<sup>18</sup>

Funds from a PLSA account may be used for:<sup>19</sup>

- Instructional materials;<sup>20</sup>
- Curriculum;<sup>21</sup>
- Specialized services by approved providers selected by the parent;<sup>22</sup>
- Enrollment, tuition or fees in various authorized educational institutions;<sup>23</sup>

<sup>12</sup> Section 1002.385(4)(b)1., F.S.

<sup>13</sup> Sections 1002.385(4)(b)2.-3., F.S.

<sup>14</sup> Section. 1002.385(13), F.S.

<sup>15</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>16</sup> An eligible nonprofit scholarship-funding organization has the same meaning as in s. 1002.395, which means a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is charitable organization that is exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code, is a Florida entity formed under chapters 607, 608 or 617 and whose principal office is located in the state, and complies with s. 1002.395(6) and (16), F.S. (respectively, obligations of SFOs and SFO applications). See, sections 1002.385(2)(e), and 1002.395(2)(f), F.S.

<sup>17</sup> Section 1002.385(9)(e), F.S.

<sup>18</sup> Sections 1002.385(7)(c), (11) and (13)(a), F.S.

<sup>19</sup> Section 1002.385(5), F.S.

<sup>20</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>21</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>22</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>23</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.

- Fees for assessments and industry certification examinations;<sup>24</sup>
- Contributions to the Florida Prepaid College Program account for the benefit of the eligible student;<sup>25</sup> and
- 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>26</sup>

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, return to or enrolls in a public school, graduates from high school, or reaches 22 years of age, whichever occurs first.<sup>27</sup>

However, a student may continue to expend the balance remaining in a PLSA account until the eligible student's graduation from an eligible postsecondary educational institution, or after a period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution.<sup>28</sup>

### ***Parent Obligations***

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>29</sup>

A specialized service provider, eligible private school, eligible postsecondary educational institution, private tutoring program provider, online or virtual program provider, public school, school district, or other entity receiving payments may not share, refund, or rebate any moneys from the PLSA account to the parent or participating student.<sup>30</sup>

A parent must annually submit a notarized, sworn compliance statement to the SFO to:<sup>31</sup>

- Affirm that the student meets regular school student attendance requirements;<sup>32</sup>
- Affirm PLSA funds only have been used 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;

<sup>24</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>25</sup> See s. 1009.98, F.S., Stanley G. Tate Florida Prepaid College Program.

<sup>26</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>27</sup> Section 1002.385(6), F.S.

<sup>28</sup> Section 1002.385(13)(c), F.S. Afterward, the PLSA account will be closed and any remaining funds will revert to the state. Id.

<sup>29</sup> Section 1002.385(11), F.S.

<sup>30</sup> Section 1002.385(5), F.S.

<sup>31</sup> Section 1002.385(11)(a), F.S.

<sup>32</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.

- Request participation in the program by the date established 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;
- Apply to renew 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.

A parent who fails to comply with these requirements forfeits the PLSA account.<sup>33</sup>

### **PLSA Program Implementation Responsibilities**

#### ***Scholarship Funding Organizations***

An eligible scholarship funding organization (SFO) is authorized to establish PLSA accounts for eligible students.<sup>34</sup>

SFOs receive applications, confirm initial or continuing participation, and determine student eligibility; award scholarships on a first-come, first-serve basis; provide a process for students on the wait list or late-filing applicants to participate in the program; establish PLSA accounts for each eligible student; and verify expenditures.<sup>35</sup> SFOs must return unused funds to the state when the student is no longer eligible to participate in the program.<sup>36</sup>

SFOs must notify DOE of applicants by March 1 before the subsequent school year starts, and, when the application is received, provide DOE with information about the student so that DOE may report the student for funding.<sup>37</sup>

SFOs must develop a system for payment of benefits by 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>38</sup> Commodities or services related to the development of such a system must be procured by competitive solicitation or from a state term contract.<sup>39</sup>

#### ***Private Schools***

An eligible private school may be sectarian or nonsectarian, and must:<sup>40</sup>

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<sup>33</sup> Section 1002.385(11), F.S.

<sup>34</sup> Section 1002.385(12), F.S.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Section 1002.385(13)(d), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 1002.385(8), F.S.

- Comply with all requirements for private schools participating in the state school choice scholarship programs;
- Provide the SFO, upon request, all documentation required for the student's participation, including all the private school's and student's fee schedules;
- Be academically accountable to the parent for meeting the educational needs of the student;<sup>41</sup>
- Employ or contract with teachers who have regular and direct contact with each student receiving a PLSA scholarship at the school's physical location; and
- Annually contract with an independent certified public accountant to perform agreed upon procedures, if the school receives more than \$250,000 in PLSA scholarship funds each year.

The inability of a private school to meet these requirements constitutes a basis for the ineligibility of the private school to participate in the program, as determined by DOE.<sup>42</sup>

### ***Department of Education***

The DOE's responsibilities are to maintain a list of approved providers, investigate written complaints, require SFOs to provide quarterly reports regarding student participation in 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>43</sup>

The State Board of Education is required to adopt rules to administer the program.<sup>44</sup>

### ***Commissioner of Education***

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.<sup>45</sup>

The Commissioner may also deny, suspend, or revoke the use of program funds for material noncompliance with law and rules.<sup>46</sup> In making this determination, the Commissioner may consider factors such as acts or omissions that led to a previous denial or revocation; failure to reimburse an SFO for improperly received funds; imposition of prior criminal sanctions, 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>47</sup>

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<sup>41</sup> A private school must provide the parent a written explanation of the student's progress; if requested by a parent, annually administer, or make provision for students participating in the program in grades 3-10 to take one of the national norm-referenced tests identified by DOE or the statewide, assessments pursuant to s. 1008.22 (students with disabilities for whom standardized testing is not appropriate are exempt from this requirement); report the student's scores to the parent; and cooperate with the scholarship student whose parent chooses to have the student participate in the statewide assessments. Section 1002.385(8)(c), F.S.

<sup>42</sup> Section 1002.385(8), F.S.

<sup>43</sup> Section 1002.385(9), F.S.

<sup>44</sup> Section 1002.385(18), F.S.

<sup>45</sup> Section 1002.385(10)(a), F.S.

<sup>46</sup> *Id.* The SBE adopted Rule 6A-6.0961, F.A.C., to administer the PLSA program, effective November 4, 2014.

<sup>47</sup> Section 1002.385(10)(b), F.S.



***School Districts***

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>48</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>49</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>50</sup> A school district may only change a matrix to correct a technical, typographical, or calculation error.<sup>51</sup>

A school district is required to notify the parent of each eligible student that the matrix may be reevaluated every 3 years.<sup>52</sup>

For each PLSA student who chooses to participate in the statewide, standardized assessment or the Florida Alternate Assessment, the school district must notify the student and parent about locations and times to take the assessments.<sup>53</sup>

***Auditor General***

The Auditor General must conduct an annual financial and operational audit related to the program.<sup>54</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>55</sup> The department will be notified of any SFO that fails to comply with a request for information.<sup>56</sup>

**III. Effect of Proposed Changes:**

The bill amends the Florida Personal Learning Scholarship Accounts Program (PLSA or program) by expanding the pool of eligible students, tightening program accountability requirements, streamlining program implementation, increasing the Department of Education's (DOE) responsibilities for implementation of the program, and clarifying program implementation.

**PLSA Program Accountability Requirements**

The bill:

- Clarifies that authorized expenditures are for “educational purposes;”
- Adds authority for PLSA funds to be used for part-time private tutoring from persons meeting specified requirements (e.g., certified teacher and special skills);

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<sup>48</sup> Sections 1002.385(7)(a), and (11), F.S.

<sup>49</sup> Section 1002.385(7), F.S.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> Section 1002.385(7)(c), F.S.

<sup>53</sup> Section 1002.385(7)(b), F.S.

<sup>54</sup> Section 1002.385(14), F.S.

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

<sup>56</sup> *Id.*

- Clarifies that interest accrued in a PLSA account remains in the PLSA account for the parent to use for authorized purposes and is treated the same as PLSA funds if moneys get reverted;
- Adds a requirement that the Auditor General must provide a copy of SFO operational audits to the Commissioner of Education (Commissioner), and streamlines Auditor General audit responsibilities by removing duplicative reporting requirements; and
- Creates a new requirement that a physician licensed under chapter 458<sup>57</sup> or 459<sup>58</sup> must approve specialized services to be provided by an approved provider.

### **PLSA Program Implementation**

The bill:

- Revises annual deadlines, beginning with 2015-16 academic year awards, to prioritize funding for renewal applications, the previous year's wait-listed students, timely-filed new applications, and then late-filed applications. For example, PLSA funding for the 2015-2016 academic year is prioritized as follows: renewal applications timely submitted by February 1, 2015; new applications submitted by June 30, 2015; and late-filed applications submitted by August 15, 2015. New or revised matrix of services are included with "completed applications;"<sup>59</sup> and
- Adds new requirements for:
  - Parents to provide "final verification"<sup>60</sup> of eligibility to SFOs in order to receive funding and confirm compliance with all requirements;
  - 100 percent of program funds to be released to SFOs in the first quarter of each year so parents have access to all funds as early in the fiscal year as possible;
  - "Wait list"<sup>61</sup> applicants to be given preference for initial program participation;
  - SFOs to annually notify program participants of ability to request new or revised matrix of services annually; and

<sup>57</sup> Chapter 458, Florida Statutes, relates to medical practice.

<sup>58</sup> Chapter 459, Florida Statutes, relates to osteopathic medicine.

<sup>59</sup> The bill describes a "completed application" as including, but not limited to, an application, required documentation and forms, an initial or revised matrix of services (if requested), and any additional information or documentation required by the SFO or in State Board of Education rule.<sup>60</sup> The bill describes "final verification" as consisting only of the following items that apply to the student: a completed withdrawal form from the school district, if the student was enrolled in a public school before the determination of program eligibility; a letter of admission or enrollment from an eligible private school in which the student wishes to participate; a copy of the notice of the parent's intent to establish and maintain a home education program required by s. 1002.41(1)(a), F.S., or a copy of the district school superintendent's review of the annual educational evaluation of the student in a home education program required by s. 1002.41(2), F.S.; or a copy of the notification from a private school that the student has withdrawn from the John M. McKay Scholarships for Students with Disabilities Program or the Florida Tax Credit Scholarship Program.

<sup>60</sup> The bill describes "final verification" as consisting only of the following items that apply to the student: a completed withdrawal form from the school district, if the student was enrolled in a public school before the determination of program eligibility; a letter of admission or enrollment from an eligible private school in which the student wishes to participate; a copy of the notice of the parent's intent to establish and maintain a home education program required by s. 1002.41(1)(a), F.S., or a copy of the district school superintendent's review of the annual educational evaluation of the student in a home education program required by s. 1002.41(2), F.S.; or a copy of the notification from a private school that the student has withdrawn from the John M. McKay Scholarships for Students with Disabilities Program or the Florida Tax Credit Scholarship Program.

<sup>61</sup> For initial program participation (i.e., excluding renewing students), the bill requires that a preference first be provided to students retained on a waiting list created by a SFO. The waiting list must be in the order that completed applications are received by the SFO.

- Private schools that wish to participate in PLSA to include within their John M. McKay or Florida Tax Credit scholarship program applications, a notification of PLSA participation.

### **DOE Responsibility to Implement the PLSA Program**

The bill:

- Adds DOE responsibilities to: facilitate program implementation, coordinate SFO implementation of core program activities, approve service providers associated with school code responsibilities, and oversee school district implementation of program requirements;
- Clarifies the Commissioner’s ability to investigate complaints; deny, suspend, and revoke program participation by any person or entity;
- Adds specific authority for the Commissioner to determine the length of suspensions or terminations, and determine conditions for reinstating program eligibility for students, organizations, private schools, postsecondary educational institutions, approved providers, or other appropriate parties;
- Adds SFO annual reporting requirements that include specific information on participating students, including the number and demographics of program participants, disability category, matrix level of services, award amount per student, total expenditures by category, and types of providers of services; and
- Adds new requirements for:
  - The Department to compare the list of PLSA students to the list of McKay Scholarship Program and Florida Tax Credit Scholarship Program students to confirm program eligibility and avoid duplicate payments; and
  - The State Board of Education to implement various rulemaking requirements by July 1, 2015, in order for the rules to be in place for the 2015-2016 academic year.

### **PLSA Program Administration**

The bill:

- Expands student eligibility to include all students on the autism spectrum, per the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5),<sup>62</sup> and to students who are, or will be, 3 or 4 years old on or before September 1 and meet all other eligibility requirements, which expands the pool of persons potentially eligible for a scholarship.
- Adds an option for parents to use PLSA funds for services available from providers outside the State of Florida who meet similar regulation or approval requirements compared to in-state providers for specialized services.
- Clarifies that kindergarten students approved via “high-risk” status must re-qualify under one of the other disability categories when he/she reaches age 6 in order to renew program participation.
- Clarifies timeframes for award of funds, use of funds once the student graduates from high school, and when funds revert.

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<sup>62</sup> The DSM-5 is the reference manual used by health care professionals in the United States as the authoritative guide to the diagnosis of mental disorders. It provides a common language for clinicians to communicate about their patients and establishes consistent and reliable diagnosis that can be used in the research of mental disorders. American Psychiatric Association, DSM-5 Development, *Frequently Asked Questions*, <http://www.dsm5.org/about/pages/faq.aspx> (last visited February 12, 2015).

- Adds the ability for a student to use funds from their PLSA accounts while enrolled in an eligible postsecondary educational institution.
- Expands the authorized uses of program funds to include
  - Training and maintenance agreements for digital devices, digital periphery devices, and assistive technology devices.
  - Fees for specialized summer education programs;
  - Fees for specialized after-school education programs;
  - Fees for an annual evaluation of educational progress by a state-certified teacher, if this option is chosen for a home education student; and
  - Transition services provided by life coaches.
- Adds new requirements for:
  - The Florida Prepaid College Board (Prepaid Board) to allow for:
    - Program funds to be used along with other funds to purchase a prepaid college plan.
    - Program funds to be separately tracked and accounted.
    - Program funds and interest to be reverted back to the state under certain situations.
    - Program funds to be used only after private payments have been used for prepaid plan expenditures.
    - Procedures to be adopted by July 1, 2015 to expedite implementation of the provisions for the 2015-2016 fiscal year.
  - Students to be authorized to use funds from their PLSA accounts at Independent Colleges and Universities of Florida (ICUF) institutions.
- Clarifies that a PLSA student at a private school may take the same state assessments as authorized for a student participating in the John M. McKay Scholarships for Students with Disabilities Program.
- Removes the requirement that program benefits be made via an electronic funds transfer or electronic payment.

The bill takes effect upon becoming a law.

#### **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:**

The Opportunity Scholarship Program was successfully challenged based on the adequacy of the public education system<sup>63</sup> and the no aid provision<sup>64</sup> of the Florida Constitution.<sup>65</sup> No other Florida school choice scholarship program has been declared unconstitutional.

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

None.

**B. Private Sector Impact:**

CS/SB 602 increases number of students potentially eligible for a personal learning scholarship account (PLSA) by including all students on the autism spectrum. A family of a student with a disability eligible to participate in the Florida Personal Learning Scholarship Account Program has the flexibility to decide which services would best meet their student's needs and to spend funds accordingly, within the limitations of the program. Each PLSA scholarship provides approximately \$10,000 to make those services more accessible and affordable, in lieu of attendance at a public school.

**C. Government Sector Impact:**

In 2014-15, approximately 1,400 students are expected to be awarded PLSA scholarships under this program at a cost of about \$14 million. The bill increases number of students potentially eligible for a scholarship by including all students on the autism spectrum and expanding eligibility to three and four year-olds. An estimated 860 additional autism spectrum students could participate in the program under the expanded definition, which would cost an additional \$8.6 million. An estimated 480 three and four year-olds could be eligible to participate in the program at an additional cost of \$4.8 million. However, since scholarships awarded under the program are on a first-come, first-served basis, the number of students receiving a scholarship is limited by the funds appropriated in the General Appropriations Act.

**VI. Technical Deficiencies:**

None.

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<sup>63</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>64</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.”

<sup>65</sup> See *Bush v. Holmes*, 886 So.2d 340 (Fla. 1st DCA 2004), affirmed on other grounds, 919 So.2d 392 (Fla. 2006).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.385 and 1009.98.

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

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

**Recommended CS by Appropriations Subcommittee on Education on March 4, 2015:**

The committee substitute:

- Expands program eligibility to students who are, or will be, 3 or 4 years old on or before September 1 and meet all other eligibility requirements;
- Expands the authorized uses of program funds to include training and maintenance agreements for digital devices, digital periphery devices, and assistive technology devices.
- Expands the authorized uses of program funds to include:
  - Fees for specialized summer education programs,
  - Fees for specialized after-school education programs,
  - Transition services provided by life coaches, and
  - Fees for an annual evaluation of educational progress by a state-certified teacher, if this option is chosen for a home education student pursuant to s. 1002.41 (1) (c)1.
- Clarifies that a PLSA student at a private school may take the same state assessments as authorized for a student participating in the John M. McKay Scholarships for Students with Disabilities Program.
- Removes the requirement that program benefits be made via an electronic funds transfer or electronic payment.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2015	.	
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Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment**

Delete lines 77 - 111  
and insert:  
organization that is approved pursuant to s. 1002.395(2)(f). The organization must have a copy of its annual operational audit provided to the Commissioner of Education as required by this section ~~has the same meaning as in s. 1002.395.~~

(f) "Eligible postsecondary educational institution" means a Florida College System institution; 7 a state university; 7 a



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11 school district technical center;; a school district adult  
12 general education center; an independent college or university  
13 that is eligible to participate in the William L. Boyd, IV,  
14 Florida Resident Access Grant Program under s. 1009.89; or an  
15 accredited independent ~~nonpublic~~ postsecondary educational  
16 institution, as defined in s. 1005.02, which is licensed to  
17 operate in the state pursuant to requirements specified in part  
18 III of chapter 1005.

19 (g) "Eligible private school" means a private school, as  
20 defined in s. 1002.01, which is located in this state, which  
21 offers an education to students in any grade from kindergarten  
22 to grade 12, and which meets the requirements of:

- 23 1. Sections 1002.42 and 1002.421; and  
24 2. A scholarship program under s. 1002.39 or s. 1002.395~~;~~  
25 ~~as applicable, if the private school participates in a~~  
26 ~~scholarship program under s. 1002.39 or s. 1002.395.~~

27 (h) "IEP" means individual education plan.

28 (i) "Parent" means a resident of this state who is a  
29 parent, as defined in s. 1000.21.

30 (j) "Program" means the Florida Personal Learning  
31 Scholarship Accounts Program established in this section.

32 (3) PROGRAM ELIGIBILITY.—A parent of a student with a  
33 disability may request and receive from the state a Florida  
34 personal learning scholarship account for the purposes specified  
35 in subsection (5) if:

36 (a) The student:

- 37 1. Is a resident of this state;  
38 2. Is or will be 3 or 4 years old on or before September 1  
39 of the year in which the student applies for program





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40 participation, or is eligible to enroll in kindergarten through  
41 grade 12



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 206 - 263

and insert:

allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices.

(b) Curriculum as defined in paragraph (2) (b).

(c) Specialized services by approved providers which have been approved by a physician licensed under chapter 458 or



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11 chapter 459 and that are selected by the parent. These  
12 specialized services may include, but are not limited to:  
13       1. Applied behavior analysis services as provided in ss.  
14 627.6686 and 641.31098.  
15       2. Services provided by speech-language pathologists as  
16 defined in s. 468.1125.  
17       3. Occupational therapy services as defined in s. 468.203.  
18       4. Services provided by physical therapists as defined in  
19 s. 486.021.  
20       5. Services provided by listening and spoken language  
21 specialists and an appropriate acoustical environment for a  
22 child who is deaf or hard of hearing and who has received an  
23 implant or assistive hearing device.  
24  
25 Specialized services outside this state are authorized under  
26 this paragraph if the services are subject to similar regulation  
27 or approval requirements.  
28       (d) Enrollment in, or tuition or fees associated with  
29 enrollment in, an eligible private school, an eligible  
30 postsecondary educational institution or a program offered by  
31 the institution, a private tutoring program authorized under s.  
32 1002.43, a virtual program offered by a department-approved  
33 private online provider that meets the provider qualifications  
34 specified in s. 1002.45(2)(a), the Florida Virtual School as a  
35 private paying student, or an approved online course offered  
36 pursuant to s. 1003.499 or s. 1004.0961.  
37       (e) Fees for nationally standardized, norm-referenced  
38 achievement tests, Advanced Placement Examinations, industry  
39 certification examinations, assessments related to postsecondary



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40 education, or other assessments.

41 (f) Contributions to the Stanley G. Tate Florida Prepaid  
42 College Program pursuant to s. 1009.98, for the benefit of the  
43 eligible student. The Florida Prepaid College Board shall, by  
44 July 1, 2015, create procedures to allow program funds to be  
45 used in conjunction with other funds used by the parent in the  
46 purchase of a prepaid college plan; require program funds to be  
47 tracked and accounted for separately from other funds  
48 contributed to a prepaid plan; require program funds and  
49 associated interest to be reverted as specified in this section;  
50 and require program funds to be used only after private payments  
51 have been used for prepaid college plan expenditures.

52 (g) Contracted services provided by a public school or  
53 school district, including classes. A student who receives  
54 services under a contract under this paragraph is not considered  
55 enrolled in a public school for eligibility purposes as  
56 specified in subsection (4).

57 (h) Tuition and fees for part-time tutoring services  
58 provided by a person who holds a valid Florida educator's  
59 certificate pursuant to s. 1012.56; a person who holds an  
60 adjunct teaching certificate pursuant to s. 1012.57; or a person  
61 who has demonstrated a mastery of subject area knowledge  
62 pursuant to 1012.56(5). The term "part-time tutoring services"  
63 as used in this paragraph does not meet the definition of the  
64 term "regular school attendance" in s. 1003.01(13) (e).

65 (i) Fees for specialized summer education programs.

66 (j) Fees for specialized after-school education programs.

67 (k) Transition services provided by job coaches.

68 (l) Fees for an annual evaluation of educational progress



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69 by a state-certified teacher, if this option is chosen for a  
70 home education student pursuant to s. 1002.41(1)(c)1.

71  
72 ===== T I T L E A M E N D M E N T =====

73 And the title is amended as follows:

74       Between lines 9 and 10

75 insert:

76       authorizing program funds to be spent for specified  
77       education programs and services;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
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Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment**

Delete lines 427 - 521  
and insert:  
participants; disability category; matrix level of services, if known; award amount per student; total expenditures for the categories in subsection (5); and the types of providers of services to students, ~~and other information deemed necessary by the department.~~

(e) Compare the list of students participating in the



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11 program with the public school student enrollment lists and the  
12 list of students participating in school choice scholarship  
13 programs established pursuant to this chapter, throughout the  
14 school year, before each program payment to avoid duplicate  
15 payments and confirm program eligibility.

16 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

17 (a) The Commissioner of Education:

18 1. Shall deny, suspend, or revoke a student's participation  
19 in the program if the health, safety, or welfare of the student  
20 is threatened or fraud is suspected.

21 2. Shall deny, suspend, or revoke an authorized use of  
22 program funds if the health, safety, or welfare of the student  
23 is threatened or fraud is suspected.

24 3. May ~~deny, suspend, or revoke an~~ authorized use of  
25 program funds for material failure to comply with this section  
26 and applicable State Board of Education ~~department~~ rules if the  
27 noncompliance is correctable within a reasonable period of time.  
28 Otherwise, the commissioner shall ~~deny, suspend, or revoke an~~  
29 authorized use for failure to materially comply with the law and  
30 rules adopted under this section.

31 4. Shall require compliance by the appropriate party by a  
32 date certain for all nonmaterial failures to comply with this  
33 section and applicable State Board of Education ~~department~~  
34 rules.

35 5. Notwithstanding the other provisions of this section,  
36 the commissioner may deny, suspend, or revoke program  
37 participation or use of program funds by the student; or  
38 participation or eligibility of an organization, eligible  
39 private school, eligible postsecondary educational institution,



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40 approved provider, or other appropriate party for a violation of  
41 this section. The commissioner may determine the length of, and  
42 conditions for lifting, the suspension or revocation specified  
43 in this paragraph. The length of suspension or revocation may  
44 not exceed 5 years, except for instances of fraud, in which case  
45 the length of suspension or revocation may not exceed 10 years.  
46 The commissioner may employ mechanisms allowed by law to recover  
47 unexpended program funds or withhold payment of an equal amount  
48 of program funds to recover program funds that were not  
49 authorized for use under this section thereafter.

50 6. Shall deny or terminate program participation upon a  
51 parent's forfeiture of a personal learning scholarship account  
52 pursuant to subsection (11).

53 (b) In determining whether to deny, suspend, ~~or~~ revoke, or  
54 lift a suspension or revocation, in accordance with this  
55 subsection, the commissioner may consider factors that include,  
56 but are not limited to, acts or omissions that ~~by a~~  
57 ~~participating entity which~~ led to a previous denial, suspension,  
58 or revocation of participation in a state or federal program or  
59 an education scholarship program; failure to reimburse the  
60 eligible nonprofit scholarship-funding organization for program  
61 funds improperly received or retained ~~by the entity~~; failure to  
62 reimburse government funds improperly received or retained;  
63 imposition of a prior criminal sanction related to the person or  
64 entity or its officers or employees; imposition of a civil fine  
65 or administrative fine, license revocation or suspension, or  
66 program eligibility suspension, termination, or revocation  
67 related to a person's or ~~an~~ entity's management or operation; or  
68 other types of criminal proceedings in which the person or the





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69 entity or its officers or employees were found guilty of,  
70 regardless of adjudication, or entered a plea of nolo contendere  
71 or guilty to, any offense involving fraud, deceit, dishonesty,  
72 or moral turpitude.

73 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
74 PARTICIPATION.—A parent who applies for program participation  
75 under this section is exercising his or her parental option to  
76 determine the appropriate placement or the services that best  
77 meet the needs of his or her child. The scholarship award for a  
78 student is based on a matrix that assigns the student to support  
79 Level III services. If a parent chooses to request and receive  
80 an IEP and a matrix of services from the school district, the  
81 amount of the payment shall be adjusted as needed, when the  
82 school district completes the matrix.

83 (a) To satisfy or maintain program eligibility, including,  
84 but not limited to, eligibility to receive program payments and  
85 expend program payments ~~enroll an eligible student in the~~  
86 ~~program,~~ the parent must sign an agreement with the ~~eligible~~  
87 ~~nonprofit scholarship funding~~ organization and annually submit a  
88 notarized, sworn compliance statement to the organization to:

89 1. Affirm that the student is enrolled in a program that  
90 meets regular school attendance requirements as provided in s.  
91 1003.01(13)(b)-(d).

92 2. Affirm that ~~Use~~ the program funds are used only for  
93 authorized purposes -serving the student's educational needs, as  
94 described in subsection (5).

95 3. Affirm that the student takes all appropriate  
96 standardized assessments as specified in this section.

97 a. If the parent enrolls the child in an eligible private



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98 school, the student must take an assessment selected by the  
99 private school pursuant to s. 1002.395(7)(e) or, if requested by  
100 the parent, the statewide, standardized assessments pursuant to  
101 s. 1002.39(8)(c)2. and (9)(e).



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/06/2015	.	
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Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment**

Delete lines 693 - 695  
and insert:  
~~electronic~~ funds transfer, including, but not limited to, debit  
cards, electronic payment cards, or any other means of  
~~electronic~~ payment that the department deems to be commercially

By Senator Gaetz

1-00348A-15

2015602\_\_

1 A bill to be entitled  
 2 An act relating to students with disabilities;  
 3 amending s. 1002.385, F.S.; revising definitions;  
 4 revising scholarship application deadlines and  
 5 guidelines; requiring authorized program funds to  
 6 support the student's educational needs; requiring the  
 7 Florida Prepaid College Board to create certain  
 8 procedures; authorizing part-time private tutoring  
 9 services by persons meeting certain requirements;  
 10 clarifying and expanding responsibilities of the  
 11 Department of Education; revising the conditions under  
 12 which a student's personal learning scholarship  
 13 account must be closed; revising the responsibilities  
 14 for school districts; revising private school  
 15 eligibility requirements; revising responsibilities  
 16 for parents and students who participate in the  
 17 program; requiring a parent to affirm program funds  
 18 are only used for authorized purposes that serve the  
 19 student's educational needs; revising responsibilities  
 20 of eligible nonprofit scholarship-funding  
 21 organizations pertaining to the administration of  
 22 personal learning scholarship accounts; revising the  
 23 wait list and priority of approving renewal and new  
 24 applications; revising the notice requirement of an  
 25 organization; authorizing accrued interest to be used  
 26 for authorized expenditures; requiring accrued  
 27 interest to be reverted as a part of reverted  
 28 scholarship funds; revising taxable income  
 29 requirements; removing obsolete audit requirements;

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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2015602\_\_

30 requiring the Auditor General to provide a copy of  
 31 each annual operational audit performed to the  
 32 Commissioner of Education within a specified  
 33 timeframe; correcting cross-references; providing  
 34 future repeal of provisions pertaining to an  
 35 implementation schedule of notification and  
 36 eligibility timelines; amending s. 1009.98, F.S.;  
 37 authorizing a prepaid college plan to be purchased,  
 38 accounted for, used, and terminated under certain  
 39 circumstances; specifying State Board of Education  
 40 rulemaking requirements; requiring the department to  
 41 make rules; outlining specific rulemaking requirements  
 42 of the Department of Education; providing an effective  
 43 date.

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

46  
 47 Section 1. Section 1002.385, Florida Statutes, is amended  
 48 to read:

49 1002.385 Florida personal learning scholarship accounts.—

50 (1) ESTABLISHMENT OF PROGRAM.—The Florida Personal Learning  
 51 Scholarship Accounts Program is established to provide the  
 52 option for a parent to better meet the individual educational  
 53 needs of his or her eligible child.

54 (2) DEFINITIONS.—As used in this section, the term:

55 (a) "Approved provider" means a provider approved by the  
 56 Agency for Persons with Disabilities, a health care practitioner  
 57 as defined in s. 456.001(4), or a provider approved by the  
 58 department pursuant to s. 1002.66. The term also includes

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59 providers outside this state which are subject to similar  
60 regulation or approval requirements.

61 (b) "Curriculum" means a complete course of study for a  
62 particular content area or grade level, including any required  
63 supplemental materials.

64 (c) "Department" means the Department of Education.

65 (d) "Disability" means, for a student in kindergarten to  
66 grade 12, autism spectrum disorder, as defined in the Diagnostic  
67 and Statistical Manual of Mental Disorders, Fifth Edition, ~~as~~  
68 ~~defined in s. 393.063(3);~~ cerebral palsy, as defined in s.  
69 393.063(4); Down syndrome, as defined in s. 393.063(13); an  
70 intellectual disability, as defined in s. 393.063(21); Prader-  
71 Willi syndrome, as defined in s. 393.063(25); or spina bifida,  
72 as defined in s. 393.063(36); for a student in kindergarten,  
73 being a high-risk child, as defined in s. 393.063(20) (a); and  
74 Williams syndrome.

75 (e) "Eligible nonprofit scholarship-funding organization"  
76 or "organization" means a nonprofit scholarship-funding  
77 organization that is approved by the department to participate  
78 in the Florida Tax Credit Scholarship Program pursuant to s.  
79 1002.395(2) (f). The organization must have a copy of its annual  
80 operational audit provided to the Commissioner of Education as  
81 required by this section ~~has the same meaning as in s. 1002.395.~~

82 (f) "Eligible postsecondary educational institution" means  
83 a Florida College System institution; ~~;~~ a state university; ~~;~~ a  
84 school district technical center; ~~;~~ a school district adult  
85 general education center; an independent college or university  
86 that is eligible to participate in the William L. Boyd, IV,  
87 Florida Resident Access Grant Program under s. 1009.89; ~~;~~ or an

1-00348A-15

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88 accredited independent nonpublic postsecondary educational  
89 institution, as defined in s. 1005.02, which is licensed to  
90 operate in the state pursuant to requirements specified in part  
91 III of chapter 1005.

92 (g) "Eligible private school" means a private school, as  
93 defined in s. 1002.01, which is located in this state, which  
94 offers an education to students in any grade from kindergarten  
95 to grade 12, and which meets the requirements of:

96 1. Sections 1002.42 and 1002.421; and

97 2. A scholarship program under s. 1002.39 or s. 1002.395,  
98 ~~as applicable, if the private school participates in a~~  
99 ~~scholarship program under s. 1002.39 or s. 1002.395.~~

100 (h) "IEP" means individual education plan.

101 (i) "Parent" means a resident of this state who is a  
102 parent, as defined in s. 1000.21.

103 (j) "Program" means the Florida Personal Learning  
104 Scholarship Accounts Program established in this section.

105 (3) PROGRAM ELIGIBILITY.—A parent of a student with a  
106 disability may request and receive from the state a Florida  
107 personal learning scholarship account for the purposes specified  
108 in subsection (5) if:

109 (a) The student:

- 110 1. Is a resident of this state;  
111 2. Is eligible to enroll in kindergarten through grade 12  
112 in a public school in this state;  
113 3. Has a disability as defined in paragraph (2) (d); and  
114 4. Is the subject of an IEP written in accordance with  
115 rules of the State Board of Education or has received a  
116 diagnosis of a disability ~~as defined in subsection (2)~~ from a

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117 physician who is licensed under chapter 458 or chapter 459 or a  
 118 psychologist who is licensed under chapter 490 ~~in this state.~~

119 (b) Beginning January 2015, and each year thereafter, the  
 120 following application deadlines and guidelines are met:

121 1. The parent of a student seeking program renewal must  
 122 submit a completed application to an organization for renewal by  
 123 February 1 before the school year in which the student wishes to  
 124 participate.

125 2. The parent of a student seeking initial approval to  
 126 participate in the program must submit a completed application  
 127 to an organization by June 30 before the school year in which  
 128 the student wishes to participate.

129 3. The parent of a student seeking approval to participate  
 130 in the program who does not comply with the requirements of  
 131 subparagraph 1. or subparagraph 2. may late-file a completed  
 132 application by August 15 before the school year in which the  
 133 student wishes to participate.

134 4. A parent must submit final verification to the  
 135 organization before the organization opens a personal learning  
 136 scholarship account for the student. The final verification must  
 137 consist of only the following items that apply to the student:

138 a. A completed withdrawal form from the school district if  
 139 the student was enrolled in a public school before the  
 140 determination of program eligibility;

141 b. A letter of admission or enrollment from an eligible  
 142 private school for the school year in which the student wishes  
 143 to participate;

144 c. A copy of the notice of the parent's intent to establish  
 145 and maintain a home education program required by s.

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146 1002.41(1)(a), or a copy of the district school superintendent's  
 147 review of the annual educational evaluation of the student in a  
 148 home education program required by s. 1002.41(2); or

149 d. A copy of notification from a private school that the  
 150 student has withdrawn from the John M. McKay Scholarships for  
 151 Students with Disabilities Program or the Florida Tax Credit  
 152 Scholarship Program.

153 5. A parent's completed application and final verification  
 154 submitted pursuant to this paragraph ~~the parent has applied to~~  
 155 an eligible nonprofit scholarship-funding organization to  
 156 participate in the program by February 1 before the school year  
 157 in which the student will participate or an alternative date as  
 158 set by the organization for any vacant, funded slots. The  
 159 ~~request~~ must be communicated directly to the organization in a  
 160 manner that creates a written or electronic record including of  
 161 ~~the request~~ and the date of receipt ~~of the request~~. The  
 162 organization shall notify the district and the department of the  
 163 parent's intent upon receipt of the parent's completed  
 164 application and final verification ~~request~~. The completed  
 165 application must include, but is not limited to, an application;  
 166 required documentation and forms; an initial or revised matrix  
 167 of services, if requested; and any additional information or  
 168 documentation required by the organization or by State Board of  
 169 Education rule.

170 (4) PROGRAM PROHIBITIONS.—

171 (a) A student is not eligible for the program while he or  
 172 she is:

173 1. Enrolled in a public school, including, but not limited  
 174 to, the Florida School for the Deaf and the Blind; the Florida

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175 Virtual School; the College-Preparatory Boarding Academy; a  
 176 developmental research school authorized under s. 1002.32; a  
 177 charter school authorized under s. 1002.33, s. 1002.331, or s.  
 178 1002.332; or a virtual education program authorized under s.  
 179 1002.45;

180 2. Enrolled in a school operating for the purpose of  
 181 providing educational services to youth in the Department of  
 182 Juvenile Justice commitment programs;

183 3. Receiving a scholarship pursuant to the Florida Tax  
 184 Credit Scholarship Program under s. 1002.395 or the John M.  
 185 McKay Scholarship for Students with Disabilities Program under  
 186 s. 1002.39; or

187 4. Receiving any other educational scholarship pursuant to  
 188 this chapter.

189 (b) A student is not eligible for the program if:

190 1. The student or student's parent has accepted any  
 191 payment, refund, or rebate, in any manner, from a provider of  
 192 any services received pursuant to subsection (5);

193 2. The student's participation in the program, or receipt  
 194 or expenditure of program funds, has been denied or revoked by  
 195 the commissioner of Education pursuant to subsection (10); ~~or~~

196 3. The student's parent has forfeited participation in the  
 197 program for failure to comply with requirements pursuant to  
 198 subsection (11); or

199 4. The student's application for program eligibility has  
 200 been denied by an organization.

201 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds may be  
 202 spent if used to support the student's educational needs, for  
 203 the following purposes:

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204 (a) Instructional materials, including digital devices,  
 205 digital periphery devices, and assistive technology devices that  
 206 allow a student to access instruction or instructional content.

207 (b) Curriculum as defined in paragraph (2) (b).

208 (c) Specialized services by approved providers which have  
 209 been approved by a physician licensed under chapter 458 or  
 210 chapter 459 and that are selected by the parent. These  
 211 specialized services may include, but are not limited to:

212 1. Applied behavior analysis services as provided in ss.  
 213 627.6686 and 641.31098.

214 2. Services provided by speech-language pathologists as  
 215 defined in s. 468.1125.

216 3. Occupational therapy services as defined in s. 468.203.

217 4. Services provided by physical therapists as defined in  
 218 s. 486.021.

219 5. Services provided by listening and spoken language  
 220 specialists and an appropriate acoustical environment for a  
 221 child who is deaf or hard of hearing and who has received an  
 222 implant or assistive hearing device.

223 Specialized services outside this state are authorized under  
 224 this paragraph if the services are subject to similar regulation  
 225 or approval requirements.

226 (d) Enrollment in, or tuition or fees associated with  
 227 enrollment in, an eligible private school, an eligible  
 228 postsecondary educational institution or a program offered by  
 229 the institution, a private tutoring program authorized under s.  
 230 1002.43, a virtual program offered by a department-approved  
 231 private online provider that meets the provider qualifications  
 232

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233 specified in s. 1002.45(2) (a), the Florida Virtual School as a  
 234 private paying student, or an approved online course offered  
 235 pursuant to s. 1003.499 or s. 1004.0961.

236 (e) Fees for nationally standardized, norm-referenced  
 237 achievement tests, Advanced Placement Examinations, industry  
 238 certification examinations, assessments related to postsecondary  
 239 education, or other assessments.

240 (f) Contributions to the Stanley G. Tate Florida Prepaid  
 241 College Program pursuant to s. 1009.98, for the benefit of the  
 242 eligible student. The Florida Prepaid College Board shall, by  
 243 July 1, 2015, create procedures to allow program funds to be  
 244 used in conjunction with other funds used by the parent in the  
 245 purchase of a prepaid college plan; require program funds to be  
 246 tracked and accounted for separately from other funds  
 247 contributed to a prepaid plan; require program funds and  
 248 associated interest to be reverted as specified in this section;  
 249 and require program funds to be used only after private payments  
 250 have been used for prepaid college plan expenditures.

251 (g) Contracted services provided by a public school or  
 252 school district, including classes. A student who receives  
 253 services under a contract under this paragraph is not considered  
 254 enrolled in a public school for eligibility purposes as  
 255 specified in subsection (4).

256 (h) Tuition and fees for part-time tutoring services  
 257 provided by a person who holds a valid Florida educator's  
 258 certificate pursuant to s. 1012.56; a person who holds an  
 259 adjunct teaching certificate pursuant to s. 1012.57; or a person  
 260 who has demonstrated a mastery of subject area knowledge  
 261 pursuant to 1012.56(5). The term "part-time tutoring services"

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262 as used in this paragraph does not meet the definition of the  
 263 term "regular school attendance" in s. 1003.01(13) (e).  
 264

265 A specialized service provider, eligible private school,  
 266 eligible postsecondary educational institution, private tutoring  
 267 program provider, online or virtual program provider, public  
 268 school, school district, or other entity receiving payments  
 269 pursuant to this subsection may not share, refund, or rebate any  
 270 moneys from the Florida personal learning scholarship account  
 271 with the parent or participating student in any manner.

272 (6) TERM OF THE PROGRAM.—For purposes of continuity of  
 273 educational choice and program integrity:

274 (a) The program payments made by the state to an  
 275 organization for a personal learning scholarship account under  
 276 this section shall ~~continue remain in force~~ until the parent  
 277 does not renew program eligibility; the organization determines  
 278 a student is not eligible for program renewal; the commissioner  
 279 denies, suspends, or revokes program participation or use of  
 280 funds; or a student enrolls in ~~participating in the program~~  
 281 participates in any of the prohibited activities specified in  
 282 subsection (4), has funds revoked by the Commissioner of  
 283 Education pursuant to subsection (10), returns to a public  
 284 school, graduates from high school, or attains 22 years of age,  
 285 whichever occurs first. A ~~participating student who enrolls in a~~  
 286 public school or public school program is considered to have  
 287 returned to a public school for the purpose of determining the  
 288 end of the program's term.

289 (b) Program expenditures by the parent from the program  
 290 account are authorized until a student's personal learning



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291 scholarship account is closed pursuant to paragraph (c).  
 292 (c) A student's personal learning scholarship account shall  
 293 be closed, and any remaining funds, including accrued interest  
 294 or contributions made using program funds pursuant to paragraph  
 295 (5) (f), shall revert to the state upon:  
 296 1. The eligible student no longer being enrolled in an  
 297 eligible postsecondary educational institution;  
 298 2. Denial or revocation of program eligibility by the  
 299 commissioner;  
 300 3. Denial of program application by an organization; or  
 301 4. After any period of 4 consecutive years after high  
 302 school completion or graduation in which the student is not  
 303 enrolled in an eligible postsecondary educational institution or  
 304 a program offered by the institution.  
 305  
 306 The commissioner must notify the parent and organization of any  
 307 reversion determination.  
 308 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—  
 309 (a)1. For a student with a disability who does not have a  
 310 matrix of services under s. 1011.62(1) (e), or who wants a  
 311 revised matrix of services, and for whom the parent requests a  
 312 new or revised matrix of services, the school district must  
 313 complete a matrix that assigns the student to one of the levels  
 314 of service as they existed before the 2000-2001 school year.  
 315 2.a. Within 10 calendar school days after a school district  
 316 receives notification of a parent's request for completion of a  
 317 matrix of services, the school district must notify the  
 318 student's parent if the matrix of services has not been  
 319 completed and inform the parent that the district is required to

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320 complete the matrix within 30 days after receiving notice of the  
 321 parent's request for the matrix of services. This notice must  
 322 include the required completion date for the matrix.  
 323 b. The school district shall complete the matrix of  
 324 services for a student whose parent has made a request. The  
 325 school district must provide the student's parent, the  
 326 organization, and the department with the student's matrix level  
 327 within 10 calendar school days after its completion.  
 328 c. The department shall notify the parent and the eligible  
 329 ~~nonprofit scholarship-funding~~ organization of the amount of the  
 330 funds awarded within 10 days after receiving the school  
 331 district's notification of the student's matrix level.  
 332 d. A school district may change a matrix of services only  
 333 if the change is to correct a technical, typographical, or  
 334 calculation error, except that a parent may annually request a  
 335 matrix reevaluation for each student participating in the  
 336 program pursuant to paragraph (12) (h).  
 337 (b) For each student participating in the program who  
 338 chooses to participate in statewide, standardized assessments  
 339 under s. 1008.22 or the Florida Alternate Assessment, the school  
 340 district in which the student resides must notify the student  
 341 and his or her parent about the locations and times to take all  
 342 statewide, standardized assessments.  
 343 ~~(c) For each student participating in the program, a school~~  
 344 ~~district shall notify the parent about the availability of a~~  
 345 ~~reevaluation at least every 3 years.~~  
 346 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An eligible  
 347 private school may be sectarian or nonsectarian and shall:  
 348 (a) Comply with all requirements for private schools

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 349 participating in state school choice scholarship programs  
 350 pursuant to s. 1002.421. To participate in the program, a  
 351 private school must submit to the department a notification for  
 352 eligibility to participate in its application for the John M.  
 353 McKay Scholarships for Students with Disabilities and Florida  
 354 Tax Credit Scholarship programs identified in ss. 1002.39 and  
 355 1002.395.

356 (b) Provide to the department and ~~eligible nonprofit~~  
 357 ~~scholarship-funding~~ organization, upon request, all  
 358 documentation required for the student's participation,  
 359 including the private school's and student's fee schedules.

360 (c) Be academically accountable to the parent for meeting  
 361 the educational needs of the student by:

362 1. At a minimum, annually providing to the parent a written  
 363 explanation of the student's progress.

364 2. Annually administering or making provision for students  
 365 participating in the program in grades 3 through 10 to take one  
 366 of the nationally norm-referenced tests identified by the State  
 367 Board Department of Education or the statewide assessments  
 368 pursuant to s. 1008.22. Students with disabilities for whom  
 369 standardized testing is not appropriate are exempt from this  
 370 requirement. A participating private school shall report a  
 371 student's scores to the parent.

372 3. Cooperating with the scholarship student whose parent  
 373 chooses to have the student participate in the statewide  
 374 assessments pursuant to s. 1008.22 or, if a private school  
 375 chooses to offer the statewide assessments, administering the  
 376 assessments at the school.

377 a. A participating private school may choose to offer and

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 378 administer the statewide assessments to all students who attend  
 379 the private school in grades 3 through 10.

380 b. A participating private school shall submit a request in  
 381 writing to the Department of Education by March 1 of each year  
 382 in order to administer the statewide assessments in the  
 383 subsequent school year.

384 (d) Employ or contract with teachers who have regular and  
 385 direct contact with each student receiving a scholarship under  
 386 this section at the school's physical location.

387 (e) Annually contract with an independent certified public  
 388 accountant to perform the agreed-upon procedures developed under  
 389 s. 1002.395(6)(o) ~~s. 1002.395(6)(n)~~ and produce a report of the  
 390 results if the private school receives more than \$250,000 in  
 391 funds from scholarships awarded under this section in the 2014-  
 392 2015 state fiscal year or a state fiscal year thereafter. A  
 393 private school subject to this paragraph must submit the report  
 394 by September 15, 2015, and annually thereafter to the  
 395 ~~scholarship-funding~~ organization that awarded the majority of  
 396 the school's scholarship funds. The agreed-upon procedures must  
 397 be conducted in accordance with attestation standards  
 398 established by the American Institute of Certified Public  
 399 Accountants.

400  
 401 The inability of a private school to meet the requirements of  
 402 this subsection constitutes a basis for the ineligibility of the  
 403 private school to participate in the program as determined by  
 404 the commissioner department.

405 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
 406 shall:

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407 (a) Maintain a list of approved providers pursuant to s.  
 408 1002.66, and eligible postsecondary educational institutions,  
 409 eligible private schools, and organizations on its website. The  
 410 department may identify or provide links to lists of other  
 411 approved providers on its website.

412 (b) Require each ~~eligible nonprofit scholarship funding~~  
 413 ~~organization to preapprove verify eligible expenditures to be~~  
 414 ~~before the distribution of funds for any expenditures made~~  
 415 pursuant to paragraphs (5) (a) and (b). Review of expenditures  
 416 made for services in paragraphs (5) (c) - (h) must ~~(5) (e) - (g) may~~  
 417 be completed after the purchase ~~payment~~ has been made.

418 (c) Investigate any written complaint of a violation of  
 419 this section by a parent, student, private school, public school  
 420 or school district, organization, provider, or other appropriate  
 421 party in accordance with the process established by s.  
 422 1002.395 (9) (f).

423 (d) Require annually by December 1 ~~quarterly~~ reports by an  
 424 ~~eligible nonprofit scholarship funding~~ organization, which must  
 425 include, but need not be limited to, regarding the number of  
 426 students participating in the program, demographics of program  
 427 participants, disability category, matrix level of services,  
 428 award amount per student, total expenditures for the categories  
 429 in subsection (5), and the types of providers of services to  
 430 students, and other information deemed necessary by the  
 431 department.

432 (e) Compare the list of students participating in the  
 433 program with the public school student enrollment lists and the  
 434 list of students participating in school choice scholarship  
 435 programs established pursuant to this chapter, throughout the

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436 school year, before each program payment to avoid duplicate  
 437 payments and confirm program eligibility.

438 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

439 (a) The Commissioner of Education:

440 1. Shall deny, suspend, or revoke a student's participation  
 441 in the program if the health, safety, or welfare of the student  
 442 is threatened or fraud is suspected.

443 2. Shall deny, suspend, or revoke an authorized use of  
 444 program funds if the health, safety, or welfare of the student  
 445 is threatened or fraud is suspected.

446 3. May ~~deny, suspend, or revoke an~~ authorized use of  
 447 program funds for material failure to comply with this section  
 448 and applicable State Board of Education department rules if the  
 449 noncompliance is correctable within a reasonable period of time.  
 450 Otherwise, the commissioner shall ~~deny, suspend, or revoke an~~  
 451 authorized use for failure to materially comply with the law and  
 452 rules adopted under this section.

453 4. Shall require compliance by the appropriate party by a  
 454 date certain for all nonmaterial failures to comply with this  
 455 section and applicable State Board of Education department  
 456 rules.

457 5. Notwithstanding the other provisions of this section,  
 458 the commissioner may deny, suspend, or revoke program  
 459 participation or use of program funds by the student; or  
 460 participation or eligibility of an organization, eligible  
 461 private school, eligible postsecondary educational institution,  
 462 approved provider, or other appropriate party for a violation of  
 463 this section. The commissioner may determine the length of, and  
 464 conditions for lifting, the suspension or revocation specified

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465 in this paragraph. The length of suspension or revocation may  
 466 not exceed 5 years, except for instances of fraud, in which case  
 467 the length of suspension or revocation may not exceed 10 years.  
 468 The commissioner may employ mechanisms allowed by law to recover  
 469 unexpended program funds or withhold payment of an equal amount  
 470 of program funds to recover program funds that were not  
 471 authorized for use under this section thereafter.

472 6. Shall deny or terminate program participation upon a  
 473 parent's forfeiture of a personal learning scholarship account  
 474 pursuant to subsection (11).

475 (b) In determining whether to deny, suspend, ~~or~~ revoke, or  
 476 lift a suspension or revocation, in accordance with this  
 477 subsection, the commissioner may consider factors that include,  
 478 but are not limited to, acts or omissions that by a  
 479 participating entity which led to a previous denial, suspension,  
 480 or revocation of participation in a state or federal program or  
 481 an education scholarship program; failure to reimburse the  
 482 eligible nonprofit scholarship-funding organization for program  
 483 funds improperly received or retained by the entity; failure to  
 484 reimburse government funds improperly received or retained;  
 485 imposition of a prior criminal sanction related to the person or  
 486 entity or its officers or employees; imposition of a civil fine  
 487 or administrative fine, license revocation or suspension, or  
 488 program eligibility suspension, termination, or revocation  
 489 related to a person's or an entity's management or operation; or  
 490 other types of criminal proceedings in which the person or the  
 491 entity or its officers or employees were found guilty of,  
 492 regardless of adjudication, or entered a plea of nolo contendere  
 493 or guilty to, any offense involving fraud, deceit, dishonesty,

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494 or moral turpitude.

495 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 496 PARTICIPATION.—A parent who applies for program participation  
 497 under this section is exercising his or her parental option to  
 498 determine the appropriate placement or the services that best  
 499 meet the needs of his or her child. The scholarship award for a  
 500 student is based on a matrix that assigns the student to support  
 501 Level III services. If a parent chooses to request and receive  
 502 an IEP and a matrix of services from the school district, the  
 503 amount of the payment shall be adjusted as needed, when the  
 504 school district completes the matrix.

505 (a) To satisfy or maintain program eligibility, including,  
 506 but not limited to, eligibility to receive program payments and  
 507 expended program payments ~~enroll an eligible student in the~~  
 508 ~~program,~~ the parent must sign an agreement with the eligible  
 509 ~~nonprofit scholarship-funding~~ organization and annually submit a  
 510 notarized, sworn compliance statement to the organization to:

511 1. Affirm that the student is enrolled in a program that  
 512 meets regular school attendance requirements as provided in s.  
 513 1003.01(13)(b)-(d).

514 2. Affirm that ~~Use~~ the program funds are used only for  
 515 authorized purposes serving the student's educational needs, as  
 516 described in subsection (5).

517 3. Affirm that the student takes all appropriate  
 518 standardized assessments as specified in this section.

519 a. If the parent enrolls the child in an eligible private  
 520 school, the student must take an assessment selected by the  
 521 private school pursuant to s. 1002.39 or s. 1002.395(7)(e).

522 b. If the parent enrolls the child in a home education

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523 program, the parent may choose to participate in an assessment  
 524 as part of the annual evaluation provided for in s.  
 525 1002.41(1)(c).

526 4. Notify the school district that the student is  
 527 participating in the program ~~Personal Learning Scholarship~~  
 528 ~~Accounts~~ if the parent chooses to enroll in a home education  
 529 program as provided in s. 1002.41.

530 5. File a completed application for initial program  
 531 participation with an organization ~~Request participation in the~~  
 532 ~~program~~ by the dates ~~date~~ established pursuant to this section  
 533 ~~by the eligible nonprofit scholarship funding organization.~~

534 6. Affirm that the student remains in good standing with  
 535 the entities identified in paragraph (5)(d), paragraph (5)(g),  
 536 or paragraph (5)(h) ~~provider or school~~ if those options are  
 537 selected by the parent.

538 7. Apply for admission of his or her child if the private  
 539 school option is selected by the parent.

540 8. Annually file a completed application to renew  
 541 participation in the program if renewal is desired by the  
 542 parent. Notwithstanding any changes to the student's IEP, a  
 543 student who was previously eligible for participation in the  
 544 program shall remain eligible to apply for renewal ~~as provided~~  
 545 ~~in subsection (6). However, in order for a high-risk child to~~  
 546 continue to participate in the program in the school year after  
 547 he or she reaches 6 years of age, the child's completed  
 548 application for renewal of program participation must contain  
 549 documentation that the child has a disability defined in  
 550 paragraph (2)(d) other than high-risk status.

551 9. Affirm that the parent will not transfer any prepaid

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552 college savings funds contributed pursuant to paragraph (5)(f)  
 553 to another beneficiary.

554 10. Affirm that the parent will not take possession of any  
 555 funding provided by the state for the program ~~Florida Personal~~  
 556 ~~Learning Scholarship Accounts.~~

557 11. Affirm that the parent will maintain a portfolio of  
 558 records and materials which must be preserved ~~by the parent~~ for  
 559 2 years and be made available for inspection by the  
 560 organization, the department, or the district school  
 561 superintendent or the superintendent's designee upon 15 days'  
 562 written notice. This paragraph does not require inspection of  
 563 ~~the superintendent to inspect~~ the portfolio. The portfolio of  
 564 records and materials must consist of:

565 a. A log of educational instruction and services which is  
 566 made contemporaneously with delivery of the instruction and  
 567 services and which designates by title any reading materials  
 568 used; ~~and~~

569 b. Samples of any writings, worksheets, workbooks, or  
 570 creative materials used or developed by the student; and

571 c. Other records, documents, or materials required by the  
 572 organization or specified by the department in rule, to  
 573 facilitate program implementation.

574 (b) The parent is responsible for procuring the services  
 575 necessary to educate the student. When the student receives a  
 576 personal learning scholarship account, the district school board  
 577 is not obligated to provide the student with a free appropriate  
 578 public education. For purposes of s. 1003.57 and the Individuals  
 579 with Disabilities in Education Act, a participating student has  
 580 only those rights that apply to all other unilaterally

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581 parentally placed students, except that, when requested by the  
582 parent, school district personnel must develop an individual  
583 education plan or matrix level of services.

584 (c) The parent is responsible for ~~the payment of all~~  
585 eligible expenses in excess of the amount of the personal  
586 learning scholarship account ~~in accordance with the terms agreed~~  
587 ~~to between the parent and the providers.~~

588  
589 A parent who fails to comply with this subsection forfeits the  
590 personal learning scholarship account.

591 (12) ADMINISTRATION OF PERSONAL LEARNING SCHOLARSHIP  
592 ACCOUNTS.—An ~~eligible nonprofit scholarship funding organization~~  
593 ~~participating in the Florida Tax Credit Scholarship Program~~  
594 ~~established under s. 1002.395~~ may establish personal learning  
595 scholarship accounts for eligible students, in accordance with  
596 the deadlines established in this section, by:

597 (a) Receiving completed applications and final verification  
598 and determining student eligibility in accordance with the  
599 requirements of this section. For initial program participation,  
600 preference must first be provided to students retained on a wait  
601 list created by the organization in the order that completed  
602 applications are approved ~~The organization shall notify the~~  
603 ~~department of the applicants for the program by March 1 before~~  
604 ~~the school year in which the student intends to participate.~~  
605 When a completed an application and final verification are is  
606 received and approved, the ~~scholarship funding~~ organization must  
607 provide the department with information on the student to enable  
608 the department to report the student for funding in an amount  
609 determined in accordance with subsection (13).

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610 (b) Notifying parents of their receipt of a scholarship on  
611 a first-come, first-served basis, after approving the completed  
612 application and confirming receipt of the parent's final  
613 verification, based upon the funds provided for this program in  
614 the General Appropriations Act.

615 (c) Establishing a date pursuant to paragraph (3) (b) by  
616 which a parent must confirm initial or continuing participation  
617 in the program and confirm the establishment or continuance of a  
618 personal learning scholarship account.

619 (d) Establishing a date and process pursuant to paragraph  
620 (3) (b) by which completed applications may be approved and  
621 students on the wait list or late-filing applicants may be  
622 allowed to participate in the program during the school year,  
623 within the amount of funds provided for this program in the  
624 General Appropriations Act. The process must allow timely filed  
625 completed applications to take precedence before late-filed  
626 completed applications for purposes of creating a wait list for  
627 participation in the program.

628 (e) Establishing and maintaining separate accounts for each  
629 eligible student. For each account, the organization must  
630 maintain a record of interest accrued that is retained in the  
631 student's account and available only for authorized program  
632 expenditures.

633 (f) Verifying qualifying educational expenditures pursuant  
634 to the requirements of subsection (5) ~~paragraph (8) (b)~~.

635 (g) Returning any remaining program unused funds pursuant  
636 to paragraph (6) (c) to the department when the student is no  
637 longer authorized to expend program funds. The organization may  
638 reimburse a parent for authorized program expenditures made

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639 during the fiscal year before funds are deposited in the  
 640 student's eligible for a personal scholarship learning account.

641 (h) Annually notifying the parent about the availability of  
 642 and the requirements associated with requesting an initial  
 643 matrix or matrix reevaluation annually for each student  
 644 participating in the program.

645 (13) FUNDING AND PAYMENT.—

646 (a)1. The maximum funding amount granted for an eligible  
 647 student with a disability, pursuant to this section ~~subsection~~  
 648 ~~(3)~~, shall be equivalent to the base student allocation in the  
 649 Florida Education Finance Program multiplied by the appropriate  
 650 cost factor for the educational program which would have been  
 651 provided for the student in the district school to which he or  
 652 she would have been assigned, multiplied by the district cost  
 653 differential.

654 2. In addition, an amount equivalent to a share of the  
 655 guaranteed allocation for exceptional students in the Florida  
 656 Education Finance Program shall be determined and added to the  
 657 amount in subparagraph 1. The calculation shall be based on the  
 658 methodology and the data used to calculate the guaranteed  
 659 allocation for exceptional students for each district in chapter  
 660 2000-166, Laws of Florida. Except as provided in subparagraph  
 661 3., the calculation shall be based on the student's grade, the  
 662 matrix level of services, and the difference between the 2000-  
 663 2001 basic program and the appropriate level of services cost  
 664 factor, multiplied by the 2000-2001 base student allocation and  
 665 the 2000-2001 district cost differential for the sending  
 666 district. The calculated amount must also include an amount  
 667 equivalent to the per-student share of supplemental academic

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668 instruction funds, instructional materials funds, technology  
 669 funds, and other categorical funds as provided in the General  
 670 Appropriations Act.

671 3. Except as otherwise provided, the calculation for all  
 672 students participating in the program shall be based on the  
 673 matrix that assigns the student to support Level III of  
 674 services. If a parent chooses to request and receive a matrix of  
 675 services from the school district, when the school district  
 676 completes the matrix, the amount of the payment shall be  
 677 adjusted as needed.

678 (b) The amount of the awarded funds shall be 90 percent of  
 679 the calculated amount. One hundred percent of the funds  
 680 appropriated for this program shall be released in the first  
 681 quarter of each fiscal year. Accrued interest is in addition to,  
 682 and not part of, the awarded funds. Program funds include both  
 683 the awarded funds and the accrued interest.

684 ~~(e) Upon an eligible student's graduation from an eligible~~  
 685 ~~postsecondary educational institution or after any period of 4~~  
 686 ~~consecutive years after high school graduation in which the~~  
 687 ~~student is not enrolled in an eligible postsecondary educational~~  
 688 ~~institution, the student's personal learning scholarship account~~  
 689 ~~shall be closed, and any remaining funds shall revert to the~~  
 690 ~~state.~~

691 ~~(c)(d) The eligible nonprofit scholarship-funding~~  
 692 organization shall develop a system for payment of benefits by  
 693 electronic funds transfer, including, but not limited to, debit  
 694 cards, electronic payment cards, or any other means of  
 695 electronic payment that the department deems to be commercially  
 696 viable or cost-effective. Commodities or services related to the

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697 development of such a system shall be procured by competitive  
698 solicitation unless they are purchased from a state term  
699 contract pursuant to s. 287.056.

700 ~~(d)(e)~~ Moneys received pursuant to this section do not  
701 constitute taxable income to the student or parent of the  
702 qualified student.

703 (14) OBLIGATIONS OF THE AUDITOR GENERAL.—

704 (a) The Auditor General shall conduct an annual ~~financial~~  
705 ~~and~~ operational audit of accounts and records of each ~~eligible~~  
706 ~~scholarship-funding~~ organization that participates in the  
707 program. As part of this audit, the Auditor General shall  
708 verify, at a minimum, the total amount of students served and  
709 eligibility of reimbursements made by each ~~eligible nonprofit~~  
710 ~~scholarship-funding~~ organization and transmit that information  
711 to the department.

712 (b) The Auditor General shall notify the department of any  
713 ~~eligible nonprofit scholarship-funding~~ organization that fails  
714 to comply with a request for information.

715 (c) The Auditor General shall provide the Commissioner of  
716 Education with a copy of each annual operational audit performed  
717 pursuant to this subsection within 10 days after each audit is  
718 finalized.

719 (15) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The  
720 Department of Health, the Agency for Persons with Disabilities,  
721 and the Department of Education shall work with an ~~eligible~~  
722 ~~nonprofit scholarship-funding~~ organization for easy or automated  
723 access to lists of licensed providers of services specified in  
724 paragraph (5) (c) to ensure efficient administration of the  
725 program.

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726 (16) LIABILITY.—The state is not liable for the award or  
727 any use of awarded funds under this section.

728 (17) SCOPE OF AUTHORITY.—This section does not expand the  
729 regulatory authority of this state, its officers, or any school  
730 district to impose additional regulation on participating  
731 private schools, ~~independent nonprofit~~ postsecondary educational  
732 institutions, and private providers beyond those reasonably  
733 necessary to enforce requirements expressly set forth in this  
734 section.

735 (18) RULES.—The State Board of Education shall adopt rules  
736 pursuant to ss. 120.536(1) and 120.54 to administer this  
737 section.

738 (19) IMPLEMENTATION SCHEDULE FOR THE 2014-2015 SCHOOL  
739 YEAR.—Notwithstanding the provisions of this section related to  
740 notification and eligibility timelines, an ~~eligible nonprofit~~  
741 ~~scholarship-funding~~ organization may enroll parents on a rolling  
742 schedule on a first-come, first-served basis, within the amount  
743 of funds provided in the General Appropriations Act. This  
744 subsection is repealed effective July 1, 2015.

745 Section 2. Subsection (11) is added to section 1009.98,  
746 Florida Statutes, to read:

747 1009.98 Stanley G. Tate Florida Prepaid College Program.—

748 (11) PROCEDURES.—Notwithstanding any other provision in  
749 this section, a prepaid college plan may be purchased, accounted  
750 for, used, and terminated as provided in s. 1002.385. The board  
751 shall, by July 1, 2015, develop procedures, contracts, and any  
752 other required forms or documentation necessary to fully  
753 implement this subsection.

754 Section 3. The Department of Education shall promulgate



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755 rules to implement s. 1002.385, Florida Statutes.

756 (1) Such rules must be effective by July 1, 2015, and must  
 757 include, but need not be limited to:

758 (a) Establishing procedures concerning the student,  
 759 organization, eligible private school, eligible postsecondary  
 760 educational institution, or other appropriate party to  
 761 participate in the program, including approval, suspension, and  
 762 termination of eligibility;

763 (b) Establishing uniform forms for use by organizations for  
 764 parents and students;

765 (c) Approving providers pertaining to the Florida K-20  
 766 Education Code;

767 (d) Incorporating program participation in existing private  
 768 school scholarship program applications, including, but not  
 769 limited to, ensuring that the process for obtaining eligibility  
 770 under s. 1002.385, Florida Statutes, is as administratively  
 771 convenient as possible for a private school;

772 (e) Establishing a matrix of services calculations and  
 773 timelines, so that the initial and revised matrix is completed  
 774 by a school district in time to be included in the completed  
 775 application;

776 (f) Establishing a deadline for an organization to provide  
 777 annual notice of the ability for a parent to request an initial  
 778 or revised matrix of services, which must enable the initial or  
 779 revised matrix to be included in the completed application;

780 (g) Establishing additional records, documents, or  
 781 materials a parent must collect and retain in the student's  
 782 portfolio;

783 (h) Establishing preliminary timelines and procedures that

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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784 enable a parent to submit a completed application to the  
 785 organization, and for the organization to review and approve the  
 786 completed application; and

787 (i) Defining terms, including, but not limited to, the  
 788 terms "participating student," "new student," "eligible  
 789 student," "award letter," "program funds," "associated  
 790 interest," "program payments," "program expenditures," "initial  
 791 program participation," "program renewal," "wait list," "timely  
 792 filed application," and "late-filed application."

793 (2) Such rules should maximize flexibility and ease of  
 794 program use for the parent and student.

795 Section 4. This act shall take effect upon becoming a law.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.



# Digital Classroom and Technology Update

Appropriations Subcommittee on Education  
March 4, 2015

Pam Stewart, Commissioner



[www.FLDOE.org](http://www.FLDOE.org)

# Florida Digital Classrooms Allocation

*Established in 2014 (s. 1011.62, F.S.), at Governor Rick Scott's recommendation, a \$40M allocation to each district to integrate technology in classroom teaching and learning*

## District Digital Classrooms Plans include:

- Measurable student performance outcomes
- Digital learning and technology infrastructure
- Professional development
- Digital tools
- Online assessment support

*A summary of the district's Digital Classrooms Plans will be available next week*

## District Digital Classrooms Plan Outline

- Section 1 – Overview including district team and district profile
- Section 2 – Strategy including need analysis, district long-term goals and theory of action
- Section 3 – Allocation Proposal for the 2014-15 DCP allocation deliverables

# Technology Integration Matrix

- The Technology Integration Matrix (TIM) illustrates how teachers and students can use technology to enhance learning.
- The TIM defines five levels of technology integration into the curriculum
  - Entry
  - Adoption
  - Adaptation
  - Infusion
  - Transformation
- The five levels of technology integration are cross-walked with five characteristics of meaningful learning environments to display levels of digital learning integration.

# Technology Integration Matrix

Levels of Technology Integration into the Curriculum

	Entry	Adoption	Adaptation	Infusion	Transformation	
Characteristics of the Learning Environment	Active	Information passively received	Conventional, procedural use of tools	Conventional independent use of tools; some student choice and exploration	Choice of tools and regular, self-directed use	Extensive and unconventional use of tools
	Collaborative	Individual student use of tools	Collaborative use of tools in conventional ways	Collaborative use of tools; some student choice and exploration	Choice of tools and regular use for collaboration	Collaboration with peers and outside resources in ways not possible without technology
	Constructive	Information delivered to students	Guided, conventional use for building knowledge	Independent use for building knowledge; some student choice and exploration	Choice and regular use for building knowledge	Extensive and unconventional use of technology tools to build knowledge
	Authentic	Use unrelated to the world outside of the instructional setting	Guided use in activities with some meaningful context	Independent use in activities connected to students' lives; some student choice and exploration	Choice of tools and regular use in meaningful activities	Innovative use for higher order learning activities in a local or global context
	Goal-Directed	Directions given, step-by-step task monitoring	Conventional and procedural use of tools to plan or monitor	Purposeful use of tools to plan and monitor; some student choice and exploration	Flexible and seamless use of tools to plan and monitor	Extensive and higher order use of tools to plan and monitor



[www.FLDOE.org](http://www.FLDOE.org)



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**THE FLORIDA SENATE**  
**APPROPRIATIONS SUBCOMMITTEE ON**  
**EDUCATION**

**Location**  
201 The Capitol

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5140

Senator Don Gaetz, *Chair*  
Senator Bill Montford, *Vice Chair*

**Professional Staff:** Tim Elwell, *Staff Director*

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

February 26, 2015

The Honorable Pam Stewart  
Commissioner of Education  
Turlington Building, Suite 1514  
325 West Gaines Street  
Tallahassee, Florida 32399

Dear Commissioner Stewart,

I greatly appreciate you taking the time to respond to questions posed by my fellow senators and me regarding Florida's public school assessment and accountability system requirements. The information you shared has helped advance our deliberations towards a practical and holistic solution to the multifaceted issues Florida faces on assessment, accountability, technology, and instruction.

As our discussions on assessment and accountability requirements have continued, it has become increasingly apparent that a certain level of technology infrastructure and sophistication is needed to successfully implement these requirements as well as the public's and state's expectations for integrating technology into our classrooms. Thus, it is critical that the Legislature has a better understanding of the technology needed (and the related costs) by school districts and schools to meet state requirements for assessment, accountability, and digital classrooms.

To assist our subcommittee and Florida's education budget for Fiscal Year 2015-16, please provide responses to the issues listed below by March 12, 2015. In addition, please indicate how these issues were considered in the development of Governor Scott's \$80 million budget recommendation for the Digital Classrooms categorical with the FEFP (Fiscal Year 2015-16).

1. Please identify statewide technical standards or guidance that the Department of Education has provided to districts and schools to support the delivery of the online test assessments and digital classroom requirements as directed by statute.



February 26, 2015

Page 2

- a. Standards to identify security requirements necessary to ensure Family Educational Rights and Privacy Act (FERPA) compliance to protect the privacy of student education records.
  - b. Standards to identify the device quantity, device types, and device attributes necessary to support reliable access by Florida students and teachers to electronic resources. Examples of device types include: desktops, laptops, tablets, and netbooks. Device attributes include, but are not limited to, the central processing unit (CPU) requirements, monitor size and resolution, browser, networking, and storage requirements.
  - c. Standards to include the connectivity requirements, internal and external, to support peak anticipated use that will ensure network performance and ensure reliable access to electronic resources.
2. Please provide an inventory, by school and district, of the current statewide technology resources.
  3. Please compare the inventory to the statewide technical standards and identify any gaps discovered by school and by district.
  4. Please provide a cost and time estimate to address the gaps and transition the current technical environment into compliance with the statewide technical standards.

Again, I sincerely thank you for your responses and willingness to address the issues and policies regarding Florida's assessment, accountability, and digital classroom requirements.

Respectfully,



Senator Don Gaetz

Chairman

Education Appropriations

**NO MEETING  
MATERIALS  
AVAILABLE**



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Agriculture  
Appropriations  
Appropriations Subcommittee on Education  
Education Pre-K - 12  
Health Policy  
Rules

**JOINT COMMITTEE:**  
Joint Legislative Budget Commission

### SENATOR BILL GALVANO

Majority Leader  
26th District

March 2, 2015

Senator Don Gaetz  
420 SOB  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chairman Gaetz:

I am writing to respectfully request approval to be excused from the Appropriations Subcommittee on Education meeting scheduled for Wednesday, March 4, 2015. I will be attending the oral arguments in the case No. SC 14-1905, League of Women Voters v. Ken Detzner.

I appreciate your consideration in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Bill".

Bill Galvano

cc.: Tim Elwell  
Joanne Bennett

**REPLY TO:**

- 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205 (941) 741-3401
- 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** KN 412  
**Caption:** Senate Appropriations Subcommittee on Education

**Type:**  
**Judge:**

**Started:** 3/4/2015 10:04:09 AM  
**Ends:** 3/4/2015 11:58:06 AM      **Length:** 01:53:58

10:04:12 AM Call to order and roll call  
10:04:43 AM Chair Comments  
10:05:15 AM SB 7028 by Senator Altman  
10:07:19 AM SB 7028 - Favorable  
10:07:28 AM SB 642 - by Senator Benacquisto - Favorable  
10:10:28 AM SB 644 by Senator Benacquisto - Favorable  
10:11:38 AM Chair Comments  
10:12:23 AM Michael Maida, Attorney  
10:12:59 AM Senator Montford  
10:13:37 AM Chairman Comments  
10:13:47 AM Michael Maida, Attorney  
10:14:22 AM SB 152 by Senator Ring- Favorable  
10:17:21 AM SB 7030 by Senator Stargel - Favorable  
10:19:19 AM SB 602 by Senator Gaetz  
10:20:51 AM Amendment #1 - 979048 Adopted  
10:21:46 AM Amendment #2 - 665824 Adopted  
10:22:30 AM Amendment #3 -554428 Adopted  
10:23:15 AM Amendment #4 - 631318  
10:23:39 AM Senator Bullard Question  
10:23:50 AM Am #4 - 631318 Adopted  
10:24:30 AM Senator Legg Question  
10:28:04 AM Katie Swingle, Homemaker/Parent of Special Needs Son  
10:35:31 AM Chair Gaetz comments  
10:36:29 AM Senator Simmons comments  
10:37:16 AM Senator Simmons motion to show voting YES on Bills  
10:37:33 AM Chair Gaetz comments  
10:37:44 AM Commissioner Pam Stewart  
10:42:46 AM Senator Montford Question  
10:45:37 AM Commissioner Pam Stewart  
10:47:07 AM Senator Bullard Question  
10:48:23 AM Commissioner Pam Stewart  
10:52:02 AM Chair Gaetz Questions  
10:56:18 AM Senator Montford Question  
10:58:33 AM Senator Ring Question  
11:00:45 AM Senator Simmons Questions  
11:05:05 AM Senator Legg  
11:05:16 AM Senator Bullard  
11:07:43 AM Senator Stargel Question  
11:09:06 AM Senator Montford Question  
11:10:47 AM Chair Gaetz Comments  
11:10:59 AM Commissioner Pam Stewart  
11:17:57 AM Chair Gaetz question  
11:20:46 AM Senator Legg Question  
11:30:04 AM Senator Ring  
11:32:53 AM Senator Montford  
11:39:09 AM Senator Stargel Question  
11:41:14 AM Chair Gaetz Tab 9  
11:48:38 AM Debby Gunnor, Retired USAF Lt. Col.  
11:53:29 AM Senator Ring Motion to show voting YES on Bills  
11:53:53 AM Karen Schoen, Retired Teacher  
11:57:26 AM Chairman Gaetz  
11:57:38 AM Meeting Adjourned

THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1

3/4/15  
Meeting Date

2003  
Bill Number (if applicable)

Topic PLSA - SB 602

Amendment Barcode (if applicable)

Name Katie Swingle

Job Title Homemaker / parent of Special Needs son

Address 2105 Naples Bonaparte Dr.

Phone (316) 204-9579

Street

Tallahassee, FL 32308

Email KSwingle@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

2

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/04/2015

*Meeting Date*

*Bill Number (if applicable)*

Topic Digital Classroom Budget Requirements

*Amendment Barcode (if applicable)*

Name Pam Stewart

Job Title Commissioner

Address 325 W. Gaines St.

Phone 850-245-0505

*Street*

Tallahassee

FL

32399

Email Commissioner@fldoe.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Florida Department of Education

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE  
APPEARANCE RECORD

3

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4 March 2015  
Meeting Date

Bill Number (if applicable)

Topic Testing

Amendment Barcode (if applicable)

Name Debbie Gunnoe

Job Title Retired USAF Lt Col

Address 2143 Chatsworth Drive

Phone (850) 515-0217

Street

Navarre FL 32576

City

State

Zip

Email debbore.gunnoe@putgod1st.org

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
APPEARANCE RECORD

4

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/2015

Meeting Date

~~1121~~

Bill Number (if applicable)

Topic FSSS

Amendment Barcode (if applicable)

Name Karen Schoen

Job Title Retired Teacher

Address 2196 Shelby Ct

Phone 850-397-4442

Chupley FL 32428

Email kbschoen@bellsouth.net

City State Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Citizens Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
APPEARANCE RECORD

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W

3/4/15  
Meeting Date

SB 152  
Bill Number (if applicable)

Topic Disability Awareness

Amendment Barcode (if applicable)

Name RYAN PREITER

Job Title GIOU AFFAIRS

Address 6600 W Commercial Blvd  
Street

Phone

Cauderhill FL 33319  
City State Zip

Email PREITER@CS&BROWARD.CFG

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Children's Services Council of Broward County

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/15

Meeting Date

Topic Students with Disabilities

Bill Number 602  
*(if applicable)*

Name William Thompson

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Deputy Exec. Dir.

Address 1801 Hermitage Blvd, Ste 210

Phone 850 488-8514

Street

Tallahassee

FL

State

32308

Zip

E-mail William.Thompson @  
myflorida.prapaid.com

Speaking:  For  Against  Information

Representing Florida Prepaid College Board

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/20/11)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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602

Meeting Date \_\_\_\_\_ Bill Number (if applicable) \_\_\_\_\_

Topic SB 602 \_\_\_\_\_ Amendment Barcode (if applicable) \_\_\_\_\_

Name Thomas Hill \_\_\_\_\_

Job Title Lobbyist \_\_\_\_\_

Address 113 E College Ave \_\_\_\_\_ Phone 841-1726 \_\_\_\_\_

Street

TLH

City

FL

State

32302

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing ADA Scholarships \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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W

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-3

Meeting Date

602

Bill Number (if applicable)

Topic PLSA

Amendment Barcode (if applicable)

Name DENISE LASHER

Job Title \_\_\_\_\_

Address 17513 Mallard

Phone 813 240 41567

Street

Lutic FL 33559

Email lasherine@gmail.com

City

State

Zip

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Coalition of School Board Members

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

3

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03/04/15

SB 602

*Meeting Date*

*Bill Number (if applicable)*

Topic \_\_\_\_\_

*Amendment Barcode (if applicable)*

Name Rolland Steele

Job Title \_\_\_\_\_

Address 215 South Monroe Street, Suite 420

Phone 8502706601

*Street*

Tallahassee

FL

32301

Email rolland@excelined.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
*(The Chair will read this information into the record.)*

Representing Foundation for Florida's Future

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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(W)

3/4/15

Meeting Date

SB 1002

Bill Number (if applicable)

Topic Students with Disabilities

Amendment Barcode (if applicable)

Name Brian Kunch

Job Title Director of Education Policy

Address 136 S. Brookhough St

Phone (407) 521-1279

Street

Tallahassee

City

FL

State

32301

Zip

Email kbunch@flchamber.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Chamber of Commerce

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3-4-15  
Meeting Date

SB602  
Bill Number (if applicable)

Topic Students w/ Disabilities

Amendment Barcode (if applicable)

Name Dixie Sammons

Job Title Lobbyist

Address PO Box 98

Phone 321-543-9195

Sebring FL 32923  
City State Zip

Email dysession.com@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Assoc of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/15

Meeting Date

642

Bill Number (if applicable)

Topic Individuals w/ Disabilities

Amendment Barcode (if applicable)

Name Dixie Sanson

Job Title Lobbyist

Address PO Box 98

Phone 321-543-7195

Street

Cocoa

City

FL

State

32923

Zip

Email dixiesanson@AD.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Arc of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/15  
Meeting Date

SB644  
Bill Number (if applicable)

Topic ABLE Trust Fund (Pre Paid Services)

Amendment Barcode (if applicable)

Name Dicie Sanson

Job Title Lobbyist

Address PO Box 98  
Street

Phone 321-543-7195

Cocoa FL 32923  
City State Zip

Email diciesanson@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Arc of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/4/15  
Meeting Date

642 and 644  
Bill Number (if applicable)

Topic Florida ABLE

Amendment Barcode (if applicable)

Name William Thompson

Job Title Deputy Exec. Dir.

Address 1801 Hermitage Blvd, Ste 210

Phone 850 488-8514

Street

Tallahassee

FL

32308

City

State

Zip

Email William.Thompson@myfloridaprepared.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Prepaid College Board

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

644

Meeting Date \_\_\_\_\_

Bill Number (if applicable) \_\_\_\_\_

Topic Florida ABLE

Amendment Barcode (if applicable) \_\_\_\_\_

Name William Thompson

Job Title Deputy Exec Dir

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing FL Prepaid college Board

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE  
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3.4.15  
Meeting Date

SB 7030  
Bill Number (if applicable)

Topic Postsecondary Ed. for students w/ disabilities Amendment Barcode (if applicable)

Name Divie Sansom

Job Title Lobbyist

Address PO Box 98

Phone 321.543.7195

Cocoa FL 32923  
City State Zip

Email diviesansom@aol.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing The Arc of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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