

Education Appropriations Subcommittee

Meeting Packet

**March 24, 2015
1:00 p.m. – 3:00 p.m.
Morris Hall**



The Florida House of Representatives
APPROPRIATION COMMITTEE

Education Appropriations Subcommittee

Steve Crisafulli
Speaker

Erik Fresen
Chair

MEETING AGENDA

Morris Hall
March 24, 2015

- I.** Meeting Called To Order
- II.** Opening Remarks by Chair
- III.** Consideration of the following bills:
 - CS/HB 35 - Out-of-State Fee Waivers for Veterans and Dependents by Higher Education & Workforce Subcommittee; Rep. Stark
 - CS/HB 41 - Hazardous Walking Conditions by Local Government Affairs Subcommittee and Rep. Metz
 - CS/HB 587 - Education Personnel by K-12 Subcommittee, Rep. Spano
 - HB 7091 - Postsecondary Options by Students with Disabilities by Higher Education & Workforce Subcommittee; Rep. Cortes, B.
 - HB 7095 - Florida Personal Learning Scholarship Accounts by Education Committee; Rep. Bileca
- IV.** Closing Remarks
- V.** Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 35 Out-of-State Fee Waivers for Veterans and Dependents
SPONSOR(S): Higher Education & Workforce Subcommittee, Stark and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 7028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Higher Education & Workforce Subcommittee	7 Y, 0 N, As CS	Banner	Sherry
2) Veteran & Military Affairs Subcommittee	10 Y, 0 N	Thompson	Kiner
3) Education Appropriations Subcommittee		Butler <i>JB</i>	Heflin <i>ADH</i>
4) Education Committee			

SUMMARY ANALYSIS

The Congressman C.W. Bill Young Veteran Tuition Waiver Program (Florida G.I. Bill) provides for out-of-state fee waivers for honorably discharged veterans of the U.S Armed Forces, U.S. Reserve Forces or the National Guard that attend a state university, state college, career center, or charter technical career center.

The Veterans Access, Choice and Accountability Act of 2014 (VA Reform Bill) signed into law in August 2014, requires public postsecondary institutions to provide in-state tuition rates to veterans and eligible dependents as a condition of continuing to receive G.I. Bill educational benefits. The legislation applies to all individuals qualifying under Post-9/11 G.I. Bill or the Montgomery G.I. Bill-Active Duty.

This bill expands the Congressman C.W. Bill Young Veteran Tuition Waiver Program to include members of the commissioned corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), thereby providing out-of-state fee waivers to all veterans of the U.S. Uniformed Services.

The bill also implements the VA Reform Bill by providing out-of-state fee waivers to individuals residing in the state and receiving U.S. Department of Veterans Affairs education benefits under chapters 30, 33 or 35. These chapters include the G.I. Bill, and the Survivors' and Dependents', Reserve, and Veterans Educational Assistance Programs.

The bill allows specified veterans and their family members to pay in-state tuition rates at state universities, Florida College System institutions, career centers, and charter technical career centers, which will result in a significant savings to these students. Institutions currently serving these students will lose out-of-state fee revenues. The loss in revenue may be offset by revenues generated from increased enrollment due to lower tuition.

Significant increases in enrollment will require additional state funding in future years since tuition covers only a portion of a student's educational costs. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

This bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Background

More than 1.5 million veterans live in Florida, including more than 211,000 veterans of the Afghanistan and Iraq wars, and roughly 490,000 Vietnam-era veterans.¹ Additionally, there are approximately 190,000 military retirees who call Florida home.²

Florida has a large military population with more than 61,000 active duty military personnel.³ Another 25,000 civilian personnel are directly associated with the military presence in Florida.⁴

The Florida National Guard (Guard) has nearly 12,000 members, with 9,900 Guard personnel and 2,000 Air National Guard personnel.⁵ According to the Department of Military Affairs (DMA), since September 11, 2001, more than 16,000 Guard members have been deployed to support our nation's national security interests; of this total, roughly 5,760 remain active with the Guard.

Tuition and Out-of-State Fees and Waivers/Exemptions

Florida law defines "tuition" as "the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state".⁶ Students who are not classified as "residents for tuition purposes"⁷ are required to pay the full cost of instruction at a public postsecondary institution. This additional charge is known as the "out-of-state fee".⁸ Institutions are authorized to provide exemptions and/or waivers⁹ of the out-of-state fee to students who meet specified criteria.

Chapter 2014-1, L.O.F., also known as the Florida G.I. Bill, created an out-of-state tuition fee waiver for honorably discharged veterans who reside in the state while enrolled at a state college, state university, career center operated by a school district under s. 1001.44, F.S., or a charter technical center.¹⁰ Prior to the bill's passage, non-resident students, including non-resident student veterans, were required to be classified as residents for tuition purposes in order to pay in-state tuition rates.¹¹ Without a specifically authorized fee exemption or waiver, non-resident students had to pay out-of-state fees in addition to basic tuition rates.

Specifically, the Florida G.I. Bill created the "Congressman C.W. Bill Young Veteran Tuition Waiver Program"¹², directing the state universities, Florida College System institutions, career centers, and technical centers to waive out-of-state fees for honorably discharged veterans of the U.S. Armed Forces, U.S Reserve Forces, or the National Guard. In addition to being an honorably discharged

¹ DVA, Annual Report Fiscal Year 2012-2013, Facts and Figures.

² Id.

³ Florida Defense Factbook, EFI and Haas Center, January 2013, available at: <http://www.enterpriseflorida.com/the-florida-defense-support-task-force/resources/> (last viewed February 10, 2015).

⁴ Id.

⁵ Florida National Guard website, available at: http://www.floridaguard.army.mil/?page_id=7 (last viewed February 10, 2015).

⁶ Section 1009.01(1), F.S.

⁷ Section 1009.21(1)(g), F.S.

⁸ Section 1009.01(2), F.S.

⁹ Sections 1009.25 and 1009.26, F.S.

¹⁰ Ch. 2014-1, Laws of Fla.

¹¹ Section 1009.21, F.S.

¹² Section 1009.26(13), F.S.

veteran, the law requires the veteran student to physically reside in the state in order to receive the fee waiver.

U.S. Department of Veterans Affairs (USDVA) Education Benefit Programs

The USDVA offers several financial assistance programs for veterans and dependents pursuing postsecondary education.

Post-9/11 GI Bill

The Post-9/11 GI Bill¹³ is the newest education benefit program and is offered 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. This program provides the cost of tuition and fees, up to that of the most expensive public in-state undergraduate rate for up to 36 months. Benefits generally expire 15 years after the date of the last discharge or release from active duty service. Funds are paid directly to the institution on the student's behalf and are prorated according to the student's benefit level. The benefit amounts under this program are as follows:

Post-9/11 GI Bill Service Requirements ¹⁴ (aggregate active duty service after Sept. 10, 2001)	Percentage of Maximum Benefit Payable
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

Under the Post-9/11 GI Bill, servicemembers may transfer any or all unused benefits to a spouse or child provided the servicemember is still in the military, has at least six years of service and commits to an additional four years of service. Spouses may begin to use benefits immediately and have up to 15 years from the last separation date. Children may begin to use benefits after the servicemember completes 10 years of military service and are eligible to use benefits until age 26.¹⁵

The Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship)¹⁶ entitles surviving spouses¹⁷ and children of servicemembers who died in the line of duty after September 10, 2001 to 36 months of the full, 100% level, of the Post-9/11 GI Bill Benefits, including tuition and fees, a monthly housing allowance, and a book stipend. Spouses may use this benefit until such time as they remarry and children are eligible until age 33.

Montgomery GI Bill

The Montgomery GI Bill – Active Duty (MGIB-AD)¹⁸ is available to veterans who began active duty service for the first time after June 30, 1985, had their pay reduced \$100 a month for 12 months, and

¹³ 38 U.S.C. §§3301-3325.

¹⁴ 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 (last viewed March 6, 2015).

¹⁵ 38 U.S.C. § 3319.

¹⁶ 38 U.S.C. § 3311(b)(9).

¹⁷ Public Law 113-146, Title VII, Section 701, The Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, H.R. 3230, 113th Cong. (Aug. 7, 2014), expanded eligibility for the Fry Scholarship to surviving spouses effective January 1, 2015.

¹⁸ 38 U.S.C. §§3001-3035.

received an honorable discharge. These benefits are paid directly to the veteran with monthly benefit amounts varying based on length of service and type of educational training being pursued. The current monthly benefit for a veteran who completed an enlistment of 3 years or more and is pursuing a full time college degree or certificate is \$1,717.¹⁹ The MGIB-AD provides up to 36 months of benefits and must be used within 10 years of the last discharge date.

The Montgomery GI Bill – Selected Reserve (MGIB-SR)²⁰ is available to members actively participating in the Selected Reserve.²¹ To be eligible, reservists must be actively drilling and agree to a 6-year commitment to the reserves. Benefits are paid directly to the reservist and may be used for up to 36 months. The current monthly benefit for a reservist enrolled in a full time degree or certificate program is \$367.²²

Survivors' and Dependents' Educational Assistance

The Survivors' and Dependents' Educational Assistance program (DEA)²³ is the benefit program offered to spouses 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 Prisoner of War.²⁴ Spouses are eligible for 10 years from the date USDVA determines eligibility (up to 20 years in certain circumstances) and children are eligible until age 26, both for a maximum of 45 months. The current monthly rate payable to the recipient enrolled in a full time degree or certificate program is \$1,018.²⁵

Reserve Educational Assistance Program

The Reserve Educational Assistance Program (REAP)²⁶ provides educational assistance to members and reservists of the National Guard who have been 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.²⁷ Program beneficiaries are eligible for up to 36 months of benefits at a proportionate rate of the MGIB-AD 3-year enlistment rate. The current monthly rate for a member or reservist with at least 90 consecutive days of service, but less than one year is \$686.60.²⁸

Veterans Educational Assistance Program

The Veterans Educational Assistance Program (VEAP)²⁹ provides educational benefits for veterans entering service for the first time between December 31, 1976 and July 1, 1985. Enrollment for this program closed June 30, 1985, however a small number of veterans are still using benefits at higher education institutions in Florida.

The chart below shows the number of Florida beneficiaries for each USDVA education program for fiscal years 2011-2013.³⁰

¹⁹ USDVA Website. MGIB-AD Rates Effective October 1, 2014. Available at:

http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch30/ch30rates100114.asp (last viewed March 6, 2015).

²⁰ 10 U.S.C. §§16131-16136.

²¹ 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.

²² USDVA Website. MGIB-SR Rates. Effective October 1, 2014. Available at:

http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1606/ch1606rates100114.asp (last viewed March 6, 2015).

²³ 38 U.S.C. §§3500-3566.

²⁴ 38 U.S.C. §3501(a)(1).

²⁵ USDVA Website. REAP Rates Effective October 1, 2014. Available at:

http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch35/ch35rates100114.asp (last viewed March 6, 2015).

²⁶ 10 U.S.C. §§16161-16166.

²⁷ 10 U.S.C. §16163(a).

²⁸ USDVA Website. REAP Rates Effective October 1, 2014. Available at:

http://www.benefits.va.gov/GIBILL/resources/benefits_resources/rates/ch1607/ch1607rates100114.asp (last viewed March 6, 2015).

²⁹ 38 U.S.C. §§3201-3243.

³⁰ 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> (last viewed March 6, 2015).

Fiscal Year	Total Beneficiaries	USDVA Educational Assistance Program					
		Post-9/11	MGIB-AD	MGIB-SR	DEA	VEAP	REAP
2011	68,133	42,607	14,628	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 (VA Reform Bill) was signed into law in August 2014.³¹ The VA Reform Bill requires public institutions of higher learning to provide in-state tuition rates to veterans and eligible dependents in order for the institution to remain eligible to receive G.I. Bill education payments. Specifically, the bill requires the USDVA Secretary to disapprove a course of education at a public institution of higher learning if that institution does not offer a covered individual tuition at the in-state rate. Any veteran who has served at least 90 days of active service must be allowed to pay resident tuition rates, in any state, within three years of leaving the military. The law also covers spouses and dependent children of veterans meeting certain criteria. Effective July 1, 2015, the federal law will apply to any public college or university in order for the institution to remain eligible to receive the education payments from the Montgomery G.I. Bill or Post-9/11 G.I. Bill programs.

The requirements of this legislation apply only to students qualifying under the Post-9/11 GI Bill or the Montgomery GI Bill-AD. Institutions are not required to change policies for individuals using any other USDVA educational benefits. Beneficiaries qualifying under this act include (1) veterans who enroll in an institution within the state s/he resides within 3 years of discharge from a period of active duty service of 90 days or more, (2) spouses/children using transferred benefits to attend an institution within the state s/he resides within 3 years of the transferor's discharge from a period of active duty service of 90 days or more, or (3) spouses/children using benefits under the Fry Scholarship who enroll in an institution of higher education within the state s/he resides 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. Provided a student remains continuously enrolled and continues to use either Post-9/11 GI Bill or Montgomery GI Bill-AD benefits, the beneficiary will remain eligible to continue receiving the in-state tuition rate beyond the 3 year date of discharge.

Effect of Proposed Changes

Currently, the Congressman C.W. Bill Young Veteran Tuition Waiver Program authorizes out-of-state fee waivers for honorably discharged veterans of the U.S. Armed Forces, U.S. Reserve Forces, and the National Guard. The bill expands the waivers to include veterans of the U.S. Uniformed Services, effectively adding veterans of the commissioned corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA).³² This fee waiver will be granted regardless of whether the person is using G.I. Bill education benefits.

The bill also creates an additional out-of-state fee waiver for those individuals residing in the state and receiving USDVA education benefits under Chapters 30, 33 or 35. These chapters include beneficiaries under the Post-9/11 G.I. Bill, Montgomery G.I. Bill, Survivor's and Dependents' Educational Assistance Program, Reserve Educational Assistance Program, and the Veterans Educational Assistance Program. Spouses and children using benefits transferred from an eligible servicemember are also eligible for the out-of-state fee waiver.

³¹ The Veterans' Access to Care through Choice, Accountability, and Transparency Act of 2014, Pub.L. 113-146, H.R. 3230, 113th Cong. (Aug. 7, 2014).

³² 10 U.S.C. § 101 (2013), defines the term "uniformed services" as the Army, Navy, Air Force, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Public Health Service.

The bill removes the limitation on the number of credit hours that may be waived. Currently, the waiver is applicable for 110 percent of the required credit hours of the degree or certificate program for which a student is enrolled. Currently state universities are required by law to assess additional fees to all students who enroll in additional coursework beyond what is required for a degree program in which the student is enrolled.³³ This policy was established to incentivize students to complete baccalaureate degree programs in the most efficient way possible.

B. SECTION DIRECTORY:

Section 1: Amends s. 1009.26, F.S., to direct state universities, Florida College System institutions, and Florida career centers to waive certain fees for veterans.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

State University System

The Board of Governors, based on Fall 2013 enrollment data of veteran dependents using G.I. Bill benefits and enrolling in 30 credit hours per year, estimates an annual unrealized tuition amount for the State University System of \$2,695,543.³⁴

According to the Board of Governors, the fiscal impact to the State University System is calculated by using the 2013-2014 FTE enrollment data for active duty students and eligible dependent students because 2014-2015 data are not yet available. Additionally, the 2014-2015 Tuition and Fee Survey is used to calculate the system average of lost revenues resulting from the exclusion of non-resident fees paid by these students.³⁵

Of the 136 FTE non-resident students listed under active duty, reservist, and eligible dependents, 88 FTE are undergraduate students and 53 FTE are graduate students. The estimated fiscal impact of waiving the non-resident fee for undergraduate and graduate students is as follows:

Active Duty and Reservists³⁶

Undergraduate Students (4 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,588 * 4 FTE = \$78,352

Graduate Students (23 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,966 * 23 FTE = \$459,218

³³ Section 1009.286(2), F.S.

³⁴ E-mail correspondence with Board of Governors of the State University System of Florida staff. February 23, 2015. On file with Higher Education and Workforce Subcommittee.

³⁵ State University System of Florida Board of Governor's 2015 Legislative Bill Analysis for CS/HB 35.

³⁶ Id.

Eligible Dependents and Survivors³⁷

Undergraduate Students (84 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,588 * 84 FTE = \$1,645,392

Graduate Students (25 FTE):

2014-2015 System Non-Resident Fee Revenue = \$19,966 * 25 FTE = \$499,150

As a result, an estimated \$2.7 M in tuition revenue would be foregone by the system if the non-resident fee is waived for 136 FTE active duty and reservists students and eligible dependents and survivors at the undergraduate and graduate levels.³⁸

Florida College System

According to the Division of Florida Colleges, the fiscal impact of the bill is indeterminate. The number of spouses or dependents affected by the recommended changes cannot be determined with currently available data. Colleges may see a reduction of out-of-state fee revenue from currently enrolled students benefitting from the proposed changes. The loss in revenue may be offset by revenues received through increased enrollment due to lower tuition.

For Fiscal Year 2014-15, the weighted average in-state tuition and fees for lower level programs is \$105.21 per credit hour; the weighted average out-of-state tuition and fees is \$386.82 per credit hour³⁹, which is \$281.61 above the in-state per credit hour rate.

2. Expenditures:

Existing data elements within the Florida College System Student Data Base may need revision to identify veterans and their dependents. Florida College System institutions may incur additional administrative costs to verify and track student eligibility; however, the cost is indeterminate. Additionally, the potentially increased enrollment would require supplementary resources and expenditures just as any other enrollment growth would.⁴⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

³⁷ Id.

³⁸ Id.

³⁹ Id.

⁴⁰ Florida Department of Education 2015 Agency Bill Analysis, March 9, 2015.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Specified veterans using G.I. Bill educational benefits, who would otherwise be unable to establish Florida residency for tuition purposes, and spouses and dependents of servicemen who transfer their benefits would be able to pay in-state tuition rates at state universities, Florida College System institutions, career centers, and charter technical career centers. Savings are outlined below:

*In-State versus Out-of State Tuition Per Credit / Clock Hour*⁴¹

	Average Tuition and Fees		Savings Per Credit Hour
	In-State	Out-of-State	
COLLEGES			
Associate	\$105	\$387	\$282
Baccalaureate	\$120	\$513	\$393
Career Certificates/Applied Technology Diploma ¹	\$83	\$328	\$246
UNIVERSITIES			
Undergraduate	\$198	\$688	\$490
Graduate ²	\$433	\$1,057	\$624
CAREER CENTERS (tuition - per clock hour)			
Career Certificates/Applied Technology Diploma ¹	\$2.74	\$10.56	\$7.82

¹ Career Centers and Charter Technical Centers also offer Career Certificate and Applied Technology Diploma programs. These tuition and fee rates represent college' conversion of rates from clock hour to credit hour.

² Graduate program tuition and fee comparisons do not include Law, Medical, Vet Medicine, Dentistry, Pharmacy, Physical Therapy, Master Public Health, or Nurse Anesthetist programs, which have higher tuition and fees.

D. FISCAL COMMENTS:

Generally, it may be difficult for institutions to identify the number of students who will meet the criteria outlined in the bill and opt to take advantage of the expanded benefits; therefore, the full potential fiscal impact is indeterminate.

Institutions may incur losses in out-of-state fee revenues for current students who become eligible as a result of this legislation. However, by lowering tuition, institutions may gain additional enrollment, which may offset those revenue losses.

Currently, for both the Florida colleges and state universities, state funding provides approximately 57 percent of the cost of a student's education, while student tuition provides 43 percent. Significant increases in enrollment will require additional state funding. Since there is no way to determine potential enrollment increases, the fiscal impact is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

⁴¹ State universities: <http://www.flbog.edu/about/budget/current.php> ; Colleges and Career Center data provided by the Division of Florida Colleges, and Florida Department of Education, Career and Adult Education

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

RULE-MAKING AUTHORITY:

The State Board of Education and Board of Governors may be required to amend any rules or regulations inconsistent with the provisions of the bill.

B. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to out-of-state fee waivers for
 3 veterans and dependents; amending s. 1009.26, F.S.;
 4 revising the Congressman C. W. "Bill" Young Veteran
 5 Tuition Waiver Program to include out-of-state fee
 6 waivers for certain individuals receiving specified
 7 federal educational benefits; requiring adoption of
 8 rules and regulations; revising a short title;
 9 providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (13) of section 1009.26, Florida
 14 Statutes, is amended to read:

15 1009.26 Fee waivers.—

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

22 1. An individual who has been ~~an~~ honorably discharged from
 23 ~~veteran of~~ the United States Uniformed Services ~~Armed Forces,~~
 24 the United States Reserve Forces, or the National Guard, and who
 25 physically resides in this state while enrolled in the
 26 institution, regardless of whether the individual is receiving

27 federal G.I. Bill educational benefits.

28 2. Beginning July 1, 2015, an individual receiving
 29 educational benefits under 38 U.S.C. chapter 30, chapter 33, or
 30 chapter 35, who physically resides in this state while enrolled
 31 in the institution.

32 (b) Tuition and fees charged to an individual ~~a veteran~~
 33 who qualifies for the out-of-state fee waiver under this
 34 subsection may not exceed the tuition and fees charged to a
 35 resident student.

36 (c) ~~The waiver is applicable for 110 percent of the~~
 37 ~~required credit hours of the degree or certificate program for~~
 38 ~~which the student is enrolled.~~ Each state university, Florida
 39 College System institution, career center operated by a school
 40 district under s. 1001.44, and charter technical career center
 41 shall report to the Board of Governors and the State Board of
 42 Education, respectively, the number and value of all fee waivers
 43 granted annually under this subsection.



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

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

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 41 Hazardous Walking Conditions
SPONSOR(S): Local Government Affairs Subcommittee; Metz
TIED BILLS: IDEN./SIM. BILLS: SB 154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	9 Y, 0 N	Zaborske	Miller
2) Education Appropriations Subcommittee		Seifer 	Heflin 
3) Education Committee			

SUMMARY ANALYSIS

CS/HB 41 relates to identifying, inspecting, and correcting hazardous walking conditions on roads students walk along or cross in order to walk to school. The current statute applies to elementary school students through grade 6 living within a 2 mile radius of a school. Currently, the law states the intent is for the condition to be corrected within a reasonable time, but does not require entities with jurisdiction over a road with an identified hazardous walking condition to correct the condition. The bill:

- Requires district school boards and other governmental entities to cooperate to identify hazardous walking conditions;
- Requires the entity with jurisdiction over the road to correct the hazardous condition within a reasonable time;
- Requires the entity with jurisdiction over the road to include correction of a hazardous condition in its next annual 5-year capital improvements program or provide a statement of the factors justifying why a correction is not so included;
- Revises the criteria identifying hazardous walking conditions for walkways parallel to the road;
- Creates a new hazardous walking condition category, "crossings over the road";
- Requires additional parties to participate with the representatives of the school district and entity with jurisdiction over the road in inspecting the walking condition and determining whether it is hazardous;
- Provides the district school board, after notice, may initiate a declaratory judgment proceeding if the local governmental entities cannot agree whether the condition is hazardous; and
- Provides a hazardous walking condition determination may not be used as evidence in a civil action for damages against a governmental entity.

The bill has an indeterminate fiscal impact on state or local government revenues and expenditures (see Fiscal Analysis Section).

The bill is effective on July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Generally, school districts do not receive state funding to transport students in grades K-12 living 2 miles or less from the schools they attend.¹ However, state funds must be allocated to transport any public elementary school student whose grade level does not exceed grade 6² and who is subjected to a "hazardous walking condition" until the sooner of correcting the hazard or the projected completion date of correcting the hazard.³ The intent of the law is for district school boards to cooperate with the state or local governmental entities with responsibility for roads to identify and correct hazardous walking conditions within a reasonable period of time.⁴

Hazardous Walking Condition

Hazardous walking conditions currently are classified according to walkways either parallel or perpendicular to a road along which students must walk to and from school.

For walkways *parallel* to a road, a hazardous walking condition exists if there is less than a 4-foot wide surface for students to walk adjacent to the road.⁵ Not only must the walking surface be at least 4-feet wide, but if the road is uncurbed with a posted speed limit of 55 miles per hour, the walking surface adjacent to the road also must be at least 3-feet from the edge of the road or it will be a hazardous walking condition.⁶

Even if the above criteria are met for walkways *parallel* to the road, a walking condition nevertheless will *not* be considered hazardous if:

- The road is in a residential area with little or no transient traffic;⁷
- The volume of traffic⁸ on the road is less than 180 vehicles per hour, per direction, during the time when students walk to and from school;⁹ or
- The road is located in a residential area with a posted speed limit of 30 miles per hour or less.¹⁰

For walkways *perpendicular* to a road, a hazardous walking condition exists if:

- Traffic volume on the road exceeds the rate of 360 vehicles per hour, per direction, during the time when students walk to and from school *and* the crossing site is uncontrolled, meaning it is an intersection or other designated crossing site where no crossing guard,

¹ S. 1011.68(1), F.S.; FLA. ADMIN. CODE R. 6A-3.001(3) ("A reasonable walking distance for any student who is not otherwise eligible for transportation pursuant to Section 1011.68, F.S., is any distance not more than two (2) miles between the home and school or one and one-half (1 1/2) miles between the home and the assigned bus stop.").

² S. 1006.23(1), F.S.

³ S. 1006.23(1), F.S.; s. 1011.68(1)(e), F.S.

⁴ S. 106.23(2)(a), F.S. Current law does not define what is a reasonable period of time.

⁵ S. 1006.23(4)(a)1., F.S.

⁶ *Id.*

⁷ S. 1006.23(4)(a)2.a., F.S.

⁸ "Traffic volume [is] determined by the most current traffic engineering study conducted by a state or local governmental agency." S.1006.23(4), F.S.

⁹ S. 1006.23(4)(a)2.b., F.S.

¹⁰ S. 1006.23(4)(a)2.c., F.S.

- traffic enforcement officer, stop sign, or other traffic control signal is present when students walk to and from school;¹¹ or
- Total traffic volume on the road exceeds 4,000 vehicles per hour through an intersection or other crossing site controlled by a stop sign or other traffic control signal *and* no crossing guards or other traffic enforcement officers are present during the time when students walk to and from school.¹²

Inspecting, Determining, & Reporting Hazardous Walking Conditions

Identification of hazardous walking conditions begins when the district school superintendent or that person's designee receives a request to review a condition perceived to be hazardous to students in the district living within the 2-mile radius of a school and who walk to school.¹³

After the request for review is received, the perceived hazardous walking condition is inspected by the district school superintendent, or designee, and the state or local governmental entity with jurisdiction over the road.¹⁴

Current law requires the district school superintendent, or designee, and the governmental entity having jurisdiction over the road, or its representative, to mutually determine whether the walking condition is hazardous to students.

The district school superintendent or designee must report to the Department of Education the final determination whether the walking condition is hazardous to students.¹⁵

The statute does not provide a process for resolving a dispute between the district school officials and the government entity with jurisdiction over the subject road as to whether a hazardous walking condition exists.

Correcting Hazardous Walking Conditions

Upon determining that a condition is hazardous to students, the district school board must request the entity having jurisdiction over the road for a determination whether the hazard will be corrected and a projected completion date for any correction.¹⁶ Current law, however, does not require the entity with jurisdiction over the road having a hazardous walking condition to correct the condition.

Effect of Proposed Changes

The bill changes the current law's intent language to make mandatory the cooperation between school districts and governmental entities to identify hazardous walking conditions. The bill also requires the governmental entities with jurisdiction over a road with a hazardous walking condition to correct the condition within a reasonable period of time.

Hazardous Walking Condition

For walkways *parallel* to a road, the bill:

¹¹ S. 1006.23(4)(b)1., F.S.

¹² S. 1006.23(4)(b)2., F.S.

¹³ S. 1006.23(3), F.S.

¹⁴ S. 1006.23(2), F.S.

¹⁵ S. 1006.23(3), F.S.

¹⁶ S. 1006.23(2)(b), F.S.

- Retains the requirement for an area at least 4 feet wide adjacent to the road upon which students may walk but excludes drainage ditches, sluiceways, swales, or channels, from any calculation of that 4 foot area;
- By changing the posted speed limit from 55 miles per hour to 50 miles per hour or greater, expands the number of uncurbed roads required to have at least a 3 foot buffer from the edge of the road to the required 4 foot area on which students may walk; and
- Removes the exception for roads students walk along in residential areas with little or no transient traffic.

The bill does not change the criteria for hazardous walking conditions for walkways *perpendicular* to the road.

The bill adds a new subsection for “crossings over the road.” Under this subsection any *uncontrolled crossing site*¹⁷ which students must use when walking to and from school will be considered a hazardous walking condition if the road has:

- A posted speed limit of 50 miles per hour or greater; or
- 6 lanes or more, not including turn lanes, regardless of the speed limit.

Inspecting, Determining, & Reporting Hazardous Walking Conditions

Under the bill, inspection of a perceived hazardous walking condition will be initiated by a request for review from the district school superintendent. The alleged hazardous condition will be inspected jointly by:

- A representative of the school district;
- A representative of the state or local governmental entity with jurisdiction over the perceived hazardous location;
- A representative of the municipal police department for a municipal road, a representative of the sheriff’s office of a county road, *or* a representative of the Department of Transportation for a State road; and
- If the jurisdiction is within an area for which there is a metropolitan planning organization, a representative of that organization.

The bill changes the procedure for determining whether a walking condition is hazardous. If all representatives concur the condition constitutes a hazardous walking condition, they must report that determination in writing to the district school superintendent. The district school superintendent then must request a position statement from the state or local governmental entity with jurisdiction over the road regarding correcting the condition.

If the governmental representatives are unable to reach a consensus, then the reasons for lack of consensus must be reported to the district school superintendent, who shall provide a report and recommendation to the district school board. The bill does not state who must submit a report to the district school superintendent when the governmental representatives are unable to reach a consensus, which could result in multiple reports, nor does it state what must be included in the report and recommendation.

Declaratory Judgment Action

Chapter 86, F.S., relates to declaratory judgment actions and provides that a declaratory judgment action may be brought in circuit or county court, depending on the jurisdictional amounts involved, “to

¹⁷ An uncontrolled crossing site, as stated in the discussion of the present situation, means an intersection or other designated crossing site where no crossing guard, traffic enforcement officer, or stop sign or other traffic control signal is present during the time students walk to and from school. S. 1006.23(4)(b)1., F.S.

declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed.”¹⁸ The bill provides that if there is no consensus whether the walking condition is hazardous, the district school board may initiate a declaratory judgment action.

The bill also provides that if the district school board prevails in the declaratory action, the district school superintendent is to report the outcome to the Department of Education and initiate a formal request for correction of the hazardous walking condition by requesting from the entity with jurisdiction over the road a position statement regarding correction.

Correcting Hazardous Walking Conditions

The bill revises the process for correcting a hazardous walking condition. Within 90 days after receiving a request to correct the hazardous walking condition, the state or local governmental entity must inform the district school superintendent whether the entity will include correction of the hazardous walking condition in its next annual 5-year capital improvements program and, if so, when the correction will be completed.

If the next annual 5-year capital improvements program will not include correction of the condition, then the governmental entity must state the factors justifying such conclusion in writing to the district school superintendent and the Department of Education. The interaction between this requirement and the bill’s statement that the entity with jurisdiction over the road shall repair the hazardous condition within a reasonable time is unclear.

Evidence in Civil Action

The bill makes the designation of a hazardous walking condition inadmissible as evidence in a civil action for damages against a governmental entity under s. 768.28, F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.23, F.S., by revising criteria for determining hazardous walking conditions for public school students; revises procedures for inspection and identification of hazardous conditions; authorizes district school superintendents to initiate formal requests for correction of hazardous conditions; requires district school boards to provide transportation to students who would be subjected to hazardous conditions; requires state or local entities with jurisdiction over roads with hazardous conditions to correct condition; provides requirements for governmental entities relating to capital improvement programs; and makes the designation of hazardous walking conditions inadmissible as evidence in civil actions for damages against a governmental entity.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. The bill may increase the costs related to taking necessary corrective action (1) if interpreted as requiring corrective action within a reasonable time period after a walking condition is

determined to be hazardous; (2) by creating a new category of road crossing, "crossings over the road"; (3) by applying the hazardous criteria to certain residential neighborhoods formerly excluded by law; and (4) by changing the criteria for determining acceptable walkways and bringing more roads under consideration by expanding the applicable speed limit. The more expansive criteria may result in walking conditions formerly not considered hazardous now being deemed hazardous walking conditions. To the extent that a local governmental entity does correct the condition, it would cover any such costs, which amount cannot be quantified at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. The bill may increase the costs related to taking necessary corrective action (1) if interpreted as requiring corrective action within a reasonable time period after a walking condition is determined to be hazardous; (2) by creating a new category of road crossing, "crossings over the road"; (3) by applying the hazardous criteria to certain residential neighborhoods formerly excluded by law; and (4) by changing the criteria for determining acceptable walkways and bringing more roads under consideration by expanding the applicable speed limit. The more expansive criteria may result in walking conditions formerly not considered hazardous now being deemed hazardous walking conditions. To the extent that a state entity does correct the condition, it would cover any such costs, which amount cannot be quantified at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires correction of hazardous walking conditions within a reasonable period of time. However, because the bill does not set any time frame by which a hazardous walking condition must be corrected nor penalize a state or local governmental entity for failing to correct the condition, it is unlikely that there is an associated fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not compel counties or municipalities with jurisdiction over particular roads having hazardous walking conditions to correct such conditions within a specific time or subject to a specific consequence. Thus, the bill does not mandate local governments take any corrective action or expend funds beyond such amounts as called for under the present law. To the extent requiring the correction of hazardous walking conditions "within a reasonable time" may operate to increase expenditures in a shorter time frame, the bill could operate as a mandate under Art. VII, s. 18(a), Fla. Const. If so, the legislation would still bind county and city governments if:

- a. The Legislature expressly determines the proposed law fulfills an important state interest; and either
- b. The expenditure is required to comply with a law that applies to all persons similarly situated, including state and local governments; or

- c. The bill is approved by a two-thirds vote of the membership in each chamber.¹⁹

A bill interpreted as requiring expenditures by counties and municipalities is exempt from the constitutional mandate provision if the bill would have an insignificant fiscal impact.²⁰

If the fiscal impact of the bill is calculated not to exceed \$1.9 million, the impact is insignificant and there is no mandate. However, if the potential cost exceeds \$1.9 million, to meet the terms of the constitutional provision the bill would require an express determination by the Legislature that the bill fulfills an important state interest.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 9, 2015, the Local Government Affairs Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarifies the type of proceeding the district school board may bring to resolve a dispute as to whether a hazardous walking condition exists on a particular road. The bill provided for an administrative hearing under ch. 120, F.S. The amendment instead provides for resolution by a declaratory judgment action under ch. 86, F.S. The amendment also makes a technical correction. This analysis is drafted to the committee substitute as passed by the Local Government Affairs Subcommittee.

¹⁹ Art. VII, s. 18(a), Fla. Const.

²⁰ Long standing policy of the legislature has deemed "insignificant fiscal impact" to be an amount equal to 10 cents per capita. Since Florida's population was estimated to be approximately 19 million people in 2009, a fiscal impact of less than \$1.9 million statewide on cities and counties is deemed "insignificant" for purposes of Art. VII, s. 18(d), Fla. Const.

CS/HB 41

2015

1 A bill to be entitled
 2 An act relating to hazardous walking conditions;
 3 amending s. 1006.23, F.S.; revising criteria that
 4 determine a hazardous walking condition for public
 5 school students; revising procedures for inspection
 6 and identification of hazardous walking conditions;
 7 authorizing a district school superintendent to
 8 initiate a formal request for correction of a
 9 hazardous walking condition; authorizing a district
 10 school board to initiate a declaratory judgment
 11 proceeding under certain circumstances and providing
 12 requirements therefor; requiring a district school
 13 board to provide transportation to students who would
 14 be subjected to hazardous walking conditions;
 15 requiring state or local governmental entities with
 16 jurisdiction over a road with a hazardous walking
 17 condition to correct the condition within a reasonable
 18 period of time; providing requirements for a
 19 governmental entity relating to its capital
 20 improvements program; providing requirements relating
 21 to a civil action for damages; providing an effective
 22 date.

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

25
 26 Section 1. Section 1006.23, Florida Statutes, is reordered

27 and amended to read:

28 1006.23 Hazardous walking conditions.—

29 (1) DEFINITION.—As used in this section, the term
 30 "student" means any public elementary school student whose grade
 31 level does not exceed grade 6.

32 ~~(2) (4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
 33 ~~CONDITIONS.—~~

34 (a) Walkways parallel to the road.—

35 1. It shall be considered a hazardous walking condition
 36 with respect to any road along which students must walk in order
 37 to walk to and from school if there is not an area at least 4
 38 feet wide adjacent to the road, not including drainage ditches,
 39 sluiceways, swales, or channels, having a surface upon which
 40 students may walk without being required to walk on the road
 41 surface. In addition, whenever the road along which students
 42 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
 43 miles per hour or greater, the area as described above for
 44 students to walk upon shall be set off the road by no less than
 45 3 feet from the edge of the road.

46 2. ~~The provisions of~~ Subparagraph 1. does ~~de~~ not apply
 47 when the road along which students must walk:

48 ~~a. Is in a residential area which has little or no~~
 49 ~~transient traffic;~~

50 ~~a.b.~~ Is a road on which the volume of traffic is less than
 51 180 vehicles per hour, per direction, during the time students
 52 walk to and from school; or

53 b.e. Is located in a residential area and has a posted
 54 speed limit of 30 miles per hour or less.

55 (b) Walkways perpendicular to the road.—It shall be
 56 considered a hazardous walking condition with respect to any
 57 road across which students must walk in order to walk to and
 58 from school if:

59 1. ~~If~~ The traffic volume on the road exceeds the rate of
 60 360 vehicles per hour, per direction (including all lanes),
 61 during the time students walk to and from school and if the
 62 crossing site is uncontrolled. For purposes of this subsection,
 63 an "uncontrolled crossing site" is an intersection or other
 64 designated crossing site where no crossing guard, traffic
 65 enforcement officer, or stop sign or other traffic control
 66 signal is present during the times students walk to and from
 67 school.

68 2. ~~If~~ The total traffic volume on the road exceeds 4,000
 69 vehicles per hour through an intersection or other crossing site
 70 controlled by a stop sign or other traffic control signal,
 71 unless crossing guards or other traffic enforcement officers are
 72 also present during the times students walk to and from school.

73
 74 Traffic volume shall be determined by the most current traffic
 75 engineering study conducted by a state or local governmental
 76 agency.

77 (c) Crossings over the road.—It shall be considered a
 78 hazardous walking condition with respect to any road at any

79 uncontrolled crossing site which students must walk in order to
 80 walk to and from school if:

81 1. The road has a posted speed limit of 50 miles per hour
 82 or greater; or

83 2. The road has six lanes or more, not including turn
 84 lanes, regardless of the speed limit.

85 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

86 (a) When a request for review is made by ~~to~~ the district
 87 school superintendent with respect to a road over which a state
 88 or local governmental entity has jurisdiction ~~or the district~~
 89 ~~school superintendent's designee~~ concerning a condition
 90 perceived to be hazardous to students in that district who live
 91 within the 2-mile limit and who walk to school, such condition
 92 shall be inspected jointly by a representative of the school
 93 district, ~~and~~ a representative of the state or local
 94 governmental entity with ~~that has~~ jurisdiction over the
 95 perceived hazardous location, and a representative of the
 96 municipal police department for a municipal road, a
 97 representative of the sheriff's office for a county road, or a
 98 representative of the Department of Transportation for a state
 99 road. If the jurisdiction is within an area for which there is a
 100 metropolitan planning organization, a representative of that
 101 organization shall also be included. The governmental
 102 representatives shall determine whether the condition
 103 constitutes a hazardous walking condition as provided in
 104 subsection (2). If the governmental representatives concur that

105 a condition constitutes a hazardous walking condition as
 106 provided in subsection (2), they shall report that determination
 107 in writing to the district school superintendent, who shall
 108 initiate a formal request for correction as provided in
 109 subsection (4).

110 (b) If the governmental representatives are unable to
 111 reach a consensus, the reasons for lack of consensus shall be
 112 reported to the district school superintendent, who shall
 113 provide a report and recommendation to the district school
 114 board. The district school board may initiate a proceeding under
 115 chapter 86 seeking a determination as to whether the condition
 116 constitutes a hazardous walking condition as provided in
 117 subsection (2) after providing at least 30 days' notice in
 118 writing to the local governmental entities having jurisdiction
 119 over the road of its intent to do so unless, within 30 days
 120 after such notice is provided, the local governmental entities
 121 concur in writing that the condition is a hazardous walking
 122 condition as provided in subsection (2) and provide the position
 123 statement pursuant to subsection (4). If a proceeding is
 124 initiated under this paragraph, the district school board has
 125 the burden of proving such condition by the greater weight of
 126 evidence. If the district school board prevails, the district
 127 school superintendent shall report the outcome to the Department
 128 of Education and initiate a formal request for correction of the
 129 hazardous walking condition as provided in subsection (4). ~~The~~
 130 ~~district school superintendent or his or her designee and the~~

131 ~~state or local governmental entity or its representative shall~~
 132 ~~then make a final determination that is mutually agreed upon~~
 133 ~~regarding whether the hazardous condition meets the state~~
 134 ~~criteria pursuant to this section. The district school~~
 135 ~~superintendent or his or her designee shall report this final~~
 136 ~~determination to the Department.~~

137 (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.-

138 (a) A district school board ~~It is intended that district~~
 139 ~~school boards~~ and other governmental entities shall work
 140 cooperatively to identify conditions that are hazardous along
 141 student walking routes to school, and a district school board
 142 shall ~~that district school boards~~ provide transportation to
 143 students who would be subjected to such conditions.
 144 Additionally, ~~It is further intended that~~ state or local
 145 governmental entities with having jurisdiction over a road along
 146 which a hazardous walking condition is determined to exist shall
 147 correct the condition ~~such hazardous conditions~~ within a
 148 reasonable period of time.

149 (b) Upon a determination pursuant to subsection (3) ~~this~~
 150 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
 151 ~~to students,~~ the district school superintendent ~~board~~ shall
 152 request a position statement with respect to correction of such
 153 condition ~~determination~~ from the state or local governmental
 154 entity with having jurisdiction over the road. Within 90 days
 155 after receiving such request, the state or local governmental
 156 entity shall inform the district school superintendent ~~regarding~~

157 | whether the entity will include correction of the hazardous
 158 | walking condition in its next annual 5-year capital improvements
 159 | program ~~hazard will be corrected~~ and, if so, when correction of
 160 | the condition will be completed. If the hazardous walking
 161 | condition will not be included in the state or local
 162 | governmental entity's next annual 5-year capital improvements
 163 | program, the factors justifying such conclusion must be stated
 164 | in writing to the district school superintendent and the
 165 | Department of Education ~~regarding a projected completion date.~~

166 | (c) State funds shall be allocated for the transportation
 167 | of students subjected to a hazardous walking condition. However,
 168 | ~~such hazards, provided that~~ such funding shall cease upon
 169 | correction of the hazardous walking condition ~~hazard~~ or upon the
 170 | projected completion date, whichever occurs first.

171 | (5) CIVIL ACTION.—In a civil action for damages brought
 172 | against a governmental entity under s. 768.28, the designation
 173 | of a hazardous walking condition under this section is not
 174 | admissible in evidence.

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

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Education Appropriations
 2 Subcommittee

3 Representative Metz offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove lines 106-174 and insert:

7 provided in subsection (2), the governmental entity with
 8 jurisdiction shall report that determination in writing to the
 9 district school superintendent, who shall initiate a formal
 10 request for correction as provided in subsection (4).

11 (b) If the governmental representatives are unable to
 12 reach a consensus, the reasons for lack of consensus shall be
 13 reported to the district school superintendent, who shall
 14 provide a report and recommendation to the district school
 15 board. The district school board may initiate a proceeding under
 16 chapter 86 seeking a determination as to whether the condition

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Amendment No. 1

17 | constitutes a hazardous walking condition as provided in
18 | subsection (2) after providing at least 30 days' notice in
19 | writing to the local governmental entities having jurisdiction
20 | over the road of its intent to do so unless, within 30 days
21 | after such notice is provided, the local governmental entities
22 | concur in writing that the condition is a hazardous walking
23 | condition as provided in subsection (2) and provide the position
24 | statement pursuant to subsection (4). If a proceeding is
25 | initiated under this paragraph, the district school board has
26 | the burden of proving such condition by the greater weight of
27 | evidence. If the district school board prevails, the district
28 | school superintendent shall report the outcome to the Department
29 | of Education and initiate a formal request for correction of the
30 | hazardous walking condition as provided in subsection (4). ~~The~~
31 | ~~district school superintendent or his or her designee and the~~
32 | ~~state or local governmental entity or its representative shall~~
33 | ~~then make a final determination that is mutually agreed upon~~
34 | ~~regarding whether the hazardous condition meets the state~~
35 | ~~criteria pursuant to this section. The district school~~
36 | ~~superintendent or his or her designee shall report this final~~
37 | ~~determination to the Department.~~

38 | (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.-

39 | (a) A district school board ~~It is intended that district~~
40 | ~~school boards~~ and other governmental entities shall work
41 | cooperatively to identify conditions that are hazardous along

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Amendment No. 1

42 student walking routes to school, and a district school board
43 shall that district school boards provide transportation to
44 students who would be subjected to such conditions.

45 Additionally, It is further intended that state or local
46 governmental entities with having jurisdiction over a road along
47 which a hazardous walking condition is determined to exist shall
48 correct the condition such hazardous conditions within a
49 reasonable period of time.

50 (b) Upon a determination pursuant to subsection (3) this
51 section that a hazardous walking condition exists is hazardous
52 to students, the district school superintendent board shall
53 request a position statement with respect to correction of such
54 condition determination from the state or local governmental
55 entity with having jurisdiction over the road. Within 90 days
56 after receiving such request, the state or local governmental
57 entity shall inform the district school superintendent regarding
58 whether the entity will include correction of the hazardous
59 walking condition in its next annual 5-year transportation work
60 program hazard will be corrected and, if so, when correction of
61 the condition will be completed. If the hazardous walking
62 condition will not be included in the state or local
63 governmental entity's next annual 5-year transportation work
64 program, the factors justifying such conclusion must be stated
65 in writing to the district school superintendent and the
66 Department of Education regarding a projected completion date.

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Amendment No. 1

67 (c) State funds shall be allocated for the transportation
68 of students subjected to a hazardous walking condition. However,
69 such hazards, provided that such funding shall cease upon
70 correction of the hazardous walking condition hazard or upon the
71 projected completion date, whichever occurs first.

72 (5) CIVIL ACTION.—In a civil action for damages brought
73 against a governmental entity under s. 768.28, the designation
74 of a hazardous walking condition under this section is not
75 admissible in evidence.

76 (6) INTERLOCAL AGREEMENTS.—This section does not prohibit
77 a district school board and other governmental entities from
78 entering into an interlocal agreement pursuant to s. 163.31777
79 that addresses the identification and correction of hazardous
80 walking conditions, if such agreement:

81 (a) Establishes the same or higher standards for the
82 safety of students walking to school as the standards provided
83 in this section;

84 (b) Establishes the same or a more rigorous process for
85 identifying hazardous walking conditions as the processes
86 provided in this section; or

87 (c) Implements the Safe Paths to Schools Program as
88 provided in s. 335.066.

89
90
91

T I T L E A M E N D M E N T

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Amendment No. 1

92 | Remove lines 19-21 and insert:
93 | governmental entity relating to its transportation
94 | work program; providing requirements relating to a
95 | civil action for damages; providing that certain
96 | interlocal agreements that meet specified criteria are
97 | not prohibited under this section; providing an
98 | effective

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 587 Education Personnel
SPONSOR(S): K-12 Subcommittee, Spano
TIED BILLS: IDEN./SIM. BILLS: SB 888

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	9 Y, 0 N, As CS	Beagle	Fudge
2) Education Appropriations Subcommittee		Dobson <i>ND</i>	Heflin <i>K&H</i>
3) Education Committee			

SUMMARY ANALYSIS

DOE is required to investigate complaints of misconduct committed by certified educators. DOE employees who are responsible for investigating or prosecuting misconduct by certified educators are not currently authorized to access child abandonment, abuse, or neglect records held by the Department of Children and Families (DCF). The bill authorizes DCF to disclose child abandonment, abuse, or neglect records to DOE employees who investigate or prosecute misconduct by certified educators.

Public school educators are immune from personal liability through the doctrine of sovereign immunity. There are also specific statutory protections in place for such educators. There is currently not a publicly administered statewide liability insurance program for educators.

Beginning with the 2015-16 school year, the bill requires DOE to administer a statewide educator liability program for public school educators. Coverage must be provided to all full-time instructional personnel free of charge. Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience may opt to receive liability coverage, at cost.

The Education Practices Commission (EPC) is a 25 member panel comprised of educators, parents, former school board members, and law enforcement officials that is responsible for adjudicating complaints of misconduct committed by certified educators. The EPC is authorized to suspend or revoke an educator's certificate and may impose other sanctions if the Department of Education (DOE) finds probable cause to prosecute a complaint. Law enforcement members of EPC are not required to be Florida residents. The law does not provide membership for public virtual school administrators, former charter school governing board members, and former district school superintendents. The bill revises the membership of the EPC to include membership opportunities for school administrators employed by virtual schools; former charter school governing board members; and former district school superintendents, assistant superintendents, or deputy superintendents. The bill also requires all EPC members to be Florida residents and authorizes the appointment of emeritus members. Additionally, the bill authorizes the commissioner to issue a letter of guidance to a certified educator upon finding that probable cause to prosecute a complaint does not exist.

The bill has a fiscal impact on state government, as funding for the educator liability insurance program will be subject to appropriation in the General Appropriations Act (GAA). The proposed GAA provides an appropriation of \$1.2 million. See Fiscal Analysis & Economic Impact Statement.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Education Practices Commission

The Education Practices Commission (EPC) is a panel that is responsible for adjudicating complaints of misconduct committed by certified educators. The EPC is authorized to suspend or revoke an educator's certificate and may impose other sanctions.¹ The EPC consists of 25 members, including:

- Eight teachers;
- Five administrators, at least one of whom must represent a private school;
- Seven lay citizens, five of whom must be parents of public school students with no family relation to a public school employee and two of whom must be former district school board members; and
- Five sworn law enforcement officials.

EPC members are appointed by the State Board of Education based upon nominations by the Commissioner of Education and subject to Senate confirmation. Teacher, school administrator, and lay members of the EPC must be Florida residents. Residency is not required of law enforcement members.²

The Department of Education (DOE) is required to investigate complaints of misconduct committed by certified educators to determine if probable cause exists to refer the matter for prosecution by the EPC.³ DOE investigative staff must advise the Commissioner for Education regarding the findings of the investigation. DOE's legal department must review the investigation and advise the commissioner as to whether probable cause exists to prosecute the complaint. Unless the complaint involves a felony or crime of moral turpitude, the commissioner may enter into a deferred prosecution agreement with the certified educator in lieu of finding probable cause. The commissioner must dismiss a complaint if probable cause does not exist to commence prosecution.⁴

Florida law provides that records held by the Department of Children and Families (DCF) regarding reports of child abandonment, abuse, or neglect are confidential and exempt from public records disclosure requirements. The law authorizes disclosure of these records to a limited list of individuals, e.g., state or local government, law enforcement, or court officials who investigate or adjudicate alleged child abuse or provide supportive services to child abuse victims.⁵ The law does not authorize disclosure of child abuse records to DOE employees who are responsible for investigating or prosecuting misconduct by certified educators.

Educator Liability

Public school educators are immune from personal liability through the doctrine of sovereign immunity.⁶ There are also specific statutory protections in place for such educators. Each district school board may

¹ Section 1012.795(1), F.S.

² Section 1012.79(1)

³ Section 1012.796(1), F.S.

⁴ Section 1012.796(3), F.S.

⁵ Section 39.202(1)-(2), F.S.

⁶ "No officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his

provide legal services for officers and employees charged with civil or criminal actions arising out of, or in the performance of, their assigned duties and responsibilities. Additionally, district school boards must reimburse reasonable legal expenses incurred by officers and employees of school boards who are charged with civil or criminal actions arising out of or in the performance of assigned duties and responsibilities upon successful defense by the employee or officer.⁷ Furthermore, except in the case of excessive force or cruel and unusual punishment, a teacher or other member of the instructional staff, a principal or the principal's designated representative, or a bus driver, may not be held civilly or criminally liable for any action carried out in conformity with state board and district school board rules regarding the control, discipline, suspension, and expulsion of students.⁸

Student participants in a state-approved teacher preparation program are accorded the same legal protection as a certified educator while serving in a supervised clinical field experience.⁹ As such, student participants are shielded from personal liability while serving in their official capacity.

Effect of Proposed Changes

Records Disclosure

The bill authorizes DCF to disclose child abandonment, abuse, or neglect records to DOE employees who investigate or prosecute misconduct by certified educators.

Liability Insurance

Beginning with the 2015-16 school year, the bill requires DOE to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities. The program must provide coverage amounting to \$2 million to all full-time instructional personnel.¹⁰ Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience through a state-approved teacher preparation program may opt to receive liability coverage, at cost. Each district school board must notify eligible school district personnel and student teachers participating in clinical field experience in the district regarding the coverage. Postsecondary institutions and district school boards are prohibited from requiring student teachers to obtain liability coverage. By Aug 1 of each year, every school board is required to notify specified personnel that liability insurance is available.

DOE must consult with the Department of Financial Services to select the most economically prudent and the cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement. Funding for the program is contingent upon appropriation in the General Appropriations Act.

Education Practices Commission

The bill revises the membership of the EPC as follows:

- The number of teacher members is increased from 8 to 10.
- The one school administrator slot currently reserved for a private school administrator may also be filled by a virtual school administrator.
- The number of parent members is reduced from five to four.
- The two membership slots currently reserved for former district school board members remain, but are no longer classified as "lay citizen" slots and may also be filled by a former charter

employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property." Section 768.28(9)(a), F.S.

⁷ Section 1012.26, F.S.

⁸ Section 1012.75, F.S.

⁹ Section 1012.39(3), F.S.

¹⁰ Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S.

school governing board member or former district school superintendent, assistant superintendent, or deputy superintendent.

- The number of sworn law enforcement officials is reduced from five to four.
- The Commissioner of Education, upon request or recommendation from the EPC, is authorized to appoint up to five emeritus members to serve one-year terms. Emeritus members may serve up to five one-year terms, are voting members for discipline hearings, and are nonvoting members for other matters. Such members are not subject to Senate confirmation.
- All members of the EPC must be Florida residents.

Currently, the commissioner must dismiss a complaint if the complaint is not supported by probable cause. The bill allows the commissioner to issue a letter of guidance to a certified educator if probable cause does not exist and the complaint must be dismissed.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.202, F.S., relating to Confidentiality of reports and records in cases of child abuse or neglect.

Section 2. Amends s. 1012.39, F.S., relating to Students performing clinical field experience.

Section 3. Amends s. 1012.75, F.S., relating to Liability of teacher or principal.

Section 4. Amends s. 1012.79, F.S., relating to the Education Practices Commission.

Section 5. Amends s. 1012.796, F.S., relating to Complaints against teachers and administrators.

Section 6. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a fiscal impact on state government, as funding for the educator liability insurance program will be subject to appropriation in the GAA. The House proposed GAA provides funding for the program at \$1.2 million.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 11, 2015, the K-12 subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment added provisions:

- Requiring DOE to establish an educator liability insurance program.
- Specifying program administration and eligibility requirements.
- Requiring school boards to notify eligible educators and student teachers regarding liability insurance coverage.
- Prohibiting postsecondary institutions and school boards from requiring student teachers to obtain liability insurance.

The amendment also restored the total membership of the EPC to 25 members and reduced the number of parent members from five to four. The bill increased the EPC's total membership from 25 to 27 members and the number of parent slots from five to six. Rather than authorizing the Commissioner of Education to issue of a letter of guidance to a certified educator in lieu of a finding of probable cause, the amendment authorizes issuance of the letter upon dismissal of a complaint.

This bill analysis is drafted to the committee substitute.

1 A bill to be entitled
 2 An act relating to education personnel; amending s.
 3 39.202, F.S.; authorizing certain employees or agents
 4 of the Department of Education to have access to
 5 certain reports and records; amending s. 1012.39,
 6 F.S.; providing requirements regarding liability
 7 insurance for students performing clinical field
 8 experience; amending s. 1012.75, F.S.; requiring the
 9 department to administer an educator liability
 10 insurance program; specifying program administration
 11 and eligibility requirements; amending s. 1012.79,
 12 F.S.; revising Education Practices Commission
 13 membership; authorizing the Commissioner of Education
 14 to appoint emeritus members to the commission;
 15 amending s. 1012.796, F.S.; authorizing the
 16 commissioner to issue a letter of guidance in response
 17 to a complaint against a certified teacher or
 18 administrator; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Paragraphs (q) through (s) of subsection (2) of
 23 section 39.202, Florida Statutes, are redesignated as paragraphs
 24 (r) through (t), respectively, and a new paragraph (q) is added
 25 to that subsection, to read:

26 39.202 Confidentiality of reports and records in cases of

27 | child abuse or neglect.—

28 | (2) Except as provided in subsection (4), access to such
 29 | records, excluding the name of the reporter which shall be
 30 | released only as provided in subsection (5), shall be granted
 31 | only to the following persons, officials, and agencies:

32 | (g) An employee or agent of the Department of Education
 33 | who is responsible for the investigation or prosecution of
 34 | misconduct by a certified educator.

35 | Section 2. Subsection (3) of section 1012.39, Florida
 36 | Statutes, is amended to read:

37 | 1012.39 Employment of substitute teachers, teachers of
 38 | adult education, nondegreed teachers of career education, and
 39 | career specialists; students performing clinical field
 40 | experience.—

41 | (3) A student who is enrolled in a state-approved teacher
 42 | preparation program in a postsecondary educational institution
 43 | that is approved by rules of the State Board of Education and
 44 | who is jointly assigned by the postsecondary educational
 45 | institution and a district school board to perform a clinical
 46 | field experience under the direction of a regularly employed and
 47 | certified educator shall, while serving such supervised clinical
 48 | field experience, be accorded the same protection of law as that
 49 | accorded to the certified educator except for the right to
 50 | bargain collectively as an employee of the district school
 51 | board. The district school board providing the clinical field
 52 | experience shall notify the student electronically or in writing

53 | of the availability of educator liability insurance under s.
 54 | 1012.75. A postsecondary educational institution or district
 55 | school board may not require a student enrolled in a state-
 56 | approved teacher preparation program to purchase liability
 57 | insurance as a condition of participation in any clinical field
 58 | experience or related activity on the premises of an elementary
 59 | or secondary school.

60 | Section 3. Subsection (3) is added to section 1012.75,
 61 | Florida Statutes, to read:

62 | 1012.75 Liability of teacher or principal; ~~excessive~~
 63 | ~~force.~~-

64 | (3) Beginning with the 2015-2016 school year, the
 65 | Department of Education shall administer an educator liability
 66 | insurance program, as provided in the General Appropriation Act,
 67 | to protect full-time instructional personnel, as defined by the
 68 | district school board, from liability for monetary damages and
 69 | the cost of defense of actions resulting from claims made
 70 | against the instructional personnel arising out of occurrences
 71 | in the course of activities within the instructional personnel's
 72 | professional capacity. For purposes of this subsection, the term
 73 | "instructional personnel" has the same meaning as provided in s.
 74 | 1012.01(2).

75 | (a) Liability coverage, in an amount not less than \$2
 76 | million, shall be provided to all full-time instructional
 77 | personnel, as defined by the district school board. Liability
 78 | coverage may be provided to the following individuals who choose

79 to participate in the program, at cost: part-time instructional
 80 personnel, as defined by the district school board,
 81 administrative personnel, as defined by the district school
 82 board, and students enrolled in a state-approved teacher
 83 preparation program pursuant to s. 1012.39(3).

84 (b) Annually, by August 1, each district school board
 85 shall notify personnel specified in paragraph (a) of the
 86 liability coverage provided pursuant to this subsection. The
 87 department shall develop the form of the notice which shall be
 88 used by each district school board. The notice shall be on an 8
 89 1/2-inch by 5 1/2-inch postcard and include the amount of
 90 coverage, a general description of the nature of the coverage,
 91 and the contact information for coverage and claims questions.
 92 The notification shall be provided separately from any other
 93 correspondence. Each district school board shall certify to the
 94 department, by August 5 of each year, that the notification
 95 required by this paragraph has been provided.

96 (c) The department shall consult with the Department of
 97 Financial Services to select the most economically prudent and
 98 cost-effective means of implementing the program through self-
 99 insurance, a risk management program, or competitive
 100 procurement.

101 Section 4. Subsection (1) of section 1012.79, Florida
 102 Statutes, is amended to read:

103 1012.79 Education Practices Commission; organization.—

104 (1) The Education Practices Commission is composed

105 ~~consists~~ of the following 25 members: ~~10, including 8~~ teachers;
 106 5 administrators, at least one of whom represents ~~shall~~
 107 ~~represent~~ a private or virtual school; ~~4~~ 7 lay citizens who are
 108 ~~5 of whom shall be~~ parents of public school students and who are
 109 unrelated to public school employees; ~~and 2 of whom shall be~~
 110 former charter school governing board or district school board
 111 members or former superintendents, assistant superintendents, or
 112 deputy superintendents; and ~~4~~ 5 sworn law enforcement officials,
 113 appointed by the State Board of Education from nominations by
 114 the Commissioner of Education and subject to Senate
 115 confirmation. Prior to making nominations, the commissioner
 116 shall consult with teaching associations, parent organizations,
 117 law enforcement agencies, and other involved associations in the
 118 state. In making nominations, the commissioner shall attempt to
 119 achieve equal geographical representation, as closely as
 120 possible.

121 (a) A teacher member, in order to be qualified for
 122 appointment:

- 123 1. Must be certified to teach in the state.
- 124 ~~2. Must be a resident of the state.~~
- 125 ~~2.3.~~ 2.3. Must have practiced the profession in this state for
 126 at least 5 years immediately preceding the appointment.

127 (b) A school administrator member, in order to be
 128 qualified for appointment:

- 129 1. Must have an endorsement on the educator certificate in
 130 the area of school administration or supervision.

131 ~~2. Must be a resident of the state.~~

132 ~~2.3.~~ Must have practiced the profession as an
 133 administrator for at least 5 years immediately preceding the
 134 appointment.

135 ~~(c) The lay members must be residents of the state.~~

136 ~~(c)~~ ~~(d)~~ The law enforcement official members must have
 137 served in the profession for at least 5 years immediately
 138 preceding appointment and have background expertise in child
 139 safety.

140 (d) The Commissioner of Education, upon request or
 141 recommendation from the commission, may also appoint up to 5
 142 emeritus members from the commission's prior membership to serve
 143 1-year terms. Notwithstanding any prior service on the
 144 commission, an emeritus member may serve up to five 1-year
 145 terms. An emeritus member serves as a voting member at a
 146 discipline hearing and as a consulting but nonvoting member
 147 during a business meeting.

148 (e) All members must be residents of the state.

149 Section 5. Subsection (3) of section 1012.796, Florida
 150 Statutes, is amended to read:

151 1012.796 Complaints against teachers and administrators;
 152 procedure; penalties.-

153 (3) The department staff shall advise the commissioner
 154 concerning the findings of the investigation. The department
 155 general counsel or members of that staff shall review the
 156 investigation and advise the commissioner concerning probable

157 | cause or lack thereof. The determination of probable cause shall
 158 | be made by the commissioner. The commissioner shall provide an
 159 | opportunity for a conference, if requested, prior to determining
 160 | probable cause. The commissioner may enter into deferred
 161 | prosecution agreements in lieu of finding probable cause if, in
 162 | his or her judgment, such agreements are in the best interests
 163 | of the department, the certificateholder, and the public. Such
 164 | deferred prosecution agreements shall become effective when
 165 | filed with the clerk of the Education Practices Commission.
 166 | However, a deferred prosecution agreement may ~~shall~~ not be
 167 | entered into if there is probable cause to believe that a felony
 168 | or an act of moral turpitude, as defined by rule of the State
 169 | Board of Education, has occurred. Upon finding no probable
 170 | cause, the commissioner shall dismiss the complaint and may
 171 | issue a letter of guidance to the certificateholder.

172 | Section 6. This act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Appropriations
 2 Subcommittee

3 Representative Spano offered the following:

Amendment

6 Remove lines 67-83 and insert:

7 to protect full-time instructional personnel from liability for
 8 monetary damages and the costs of defending actions resulting
 9 from claims made against the instructional personnel arising out
 10 of occurrences in the course of activities within the
 11 instructional personnel's professional capacity. For purposes of
 12 this subsection, the terms "full-time," "part-time," and
 13 "administrative personnel" shall be defined by the individual
 14 district school board. For purposes of this subsection, the term
 15 "instructional personnel" has the same meaning as provided in s.
 16 1012.01(2).

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Amendment No. 1

17 | (a) Liability coverage of at least \$2 million shall be
18 | provided to all full-time instructional personnel. Liability
19 | coverage may be provided to the following individuals who choose
20 | to participate in the program, at cost: part-time instructional
21 | personnel, administrative personnel, and students enrolled in a
22 | state-approved teacher preparation program pursuant to s.
23 | 1012.39(3).
24 |

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Published On: 3/23/2015 6:25:39 PM

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7091 **PCB HEWS 15-02** **Postsecondary Options for Students with Disabilities**
SPONSOR(S): Higher Education & Workforce Subcommittee, Cortes
TIED BILLS: **IDEN./SIM. BILLS:** SB 7030

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education & Workforce Subcommittee	10 Y, 0 N	Banner	Sherry
1) Education Appropriations Subcommittee		deNagy <i>SN</i>	Heflin <i>(Act)</i>
2) Education Committee			

SUMMARY ANALYSIS

The bill creates the "Florida Postsecondary Comprehensive Transition Program Act" to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities.

The bill establishes a process for postsecondary institutions in Florida to voluntarily seek approval of a Florida Postsecondary Comprehensive Transition Program (FPCTP) to provide postsecondary education options for students with intellectual disabilities.

The bill creates the Florida Center for Students with Unique Abilities (center) to serve as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families. The center will serve a broader group of students with disabilities and their parents. Duties of the center include assisting with the implementation of the FPCTPs, including but not limited to, institution and student eligibility requirements. In addition, the center will provide statewide dissemination of information regarding education programs, services, resources, technical assistance, mentoring and job placement opportunities for students with disabilities and their families. The fiscal impact to create the center is indeterminate.

The bill also restores the Special Diploma as a high school graduation option for students with disabilities by abrogating the repeal of s. 1003.438, F.S. (scheduled to take effect July 1, 2015).

The proposed House FY 2015-16 General Appropriations Act (PCB APC 15-01) appropriates \$1,000,000 to the University of Central Florida for the Florida Center for Students with Unique Abilities. See fiscal analysis & economic impact statement.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Law

The Higher Education Act of 1965, amended and extended by the Higher Education Opportunity Act of 2008, includes new provisions to support quality higher education programs for students with disabilities. The federal law establishes comprehensive transition and postsecondary (CTP) programs, transition programs for students with intellectual disabilities (TPSID) grants, and national coordination of CTP programs for students with intellectual disabilities.¹

A student with an intellectual disability is defined as a student "with a cognitive impairment, characterized by significant limitations in intellectual and cognitive functioning and adaptive behavior who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act."²

Federal law also defines a comprehensive transition and postsecondary (CTP) program as a degree, certificate, or nondegree program that meets each of the following criteria:³

- Is offered by an institution of higher education (IHE);
- Is delivered to students physically attending the IHE;⁴
- 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 participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities with nondisabled peers:
 - Regular enrollment in credit-bearing courses offered by the institution.
 - Auditing or participating in courses offered by the institution for which the student does not receive regular academic credit.
 - Participation in noncredit-bearing, nondegree courses.
 - Participation in internships or work-based training; and
- Requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible.

Students attending CTP programs may qualify to receive federal financial aid in the form of a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant and/or Federal Work-Study⁵ provided the student:

- 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;⁶ and

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

² 20 U.S.C. s. 1140(2).

³ 20 U.S.C. s. 1140(1); 34 C.F.R. s. 231(a).

⁴ 34 C.F.R. s. 668.231(a)(2).

⁵ 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. 16, 2015); see also 34 C.F.R. ss.668.233 and 68.32.

⁶ 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).

- 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 certification.

The student must provide documentation establishing that the student has an intellectual disability.⁷

An institution that offers a CTP program must apply to the Secretary of the United States Department of Education (USDOE) to be determined eligible for federal student aid programs. The application must include:⁸

- A detailed description of the program;
- The institution's policy for determining the achievement of satisfactory academic progress;
- The length of the program (credit hours, semesters, clock hours, etc.);
- A detailed description of the educational credential or identified outcome of students enrolled in the program; and
- A copy of the letter or notice sent to the institution's accrediting agency indicating approval of the CTP program.⁹

According to data provided by the Office of Program Policy Analysis and Government Accountability (OPAGA), this approval process takes between 3 and 6 months to complete, depending on the quality of the application and associated materials.¹⁰

Transition Programs for Students with Intellectual Disabilities (TPSID) Grants are provided by USDOE as five-year cooperative agreements to institutions of higher education or consortia of institutions of higher education to enable these institutions to create or expand high quality CTP programs for students with intellectual disabilities.¹¹ Grants totaling approximately \$10.5 million were first awarded in Fiscal Year 2010 to 27 two- and four-year institutions across 23 states, including the University of South Florida – St. Pete, Florida's sole awardee.¹² Since initially awarding TPSID grants in 2010, funds have only been awarded for non-competing continuation grants.¹³

An institution or consortium that receives a TPSID grant shall use the funds to establish a model CTP program that:¹⁴

- Serves students with intellectual disabilities;
- Provides supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;
- Focuses on academic enrichment, socialization, independent living 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;

⁷ 34 C.F.R. s. 668.233(c).

⁸ 34 C.F.R. s. 668.232.

⁹ 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, at 7 of 29.

¹⁰ 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, at 18 of 85.

¹¹ 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. 16, 2015).

¹² 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. 16, 2015).

¹³ *Id.*

¹⁴ 20 U.S.C. 1140g(d).

- Partners with one or more local educational agencies (LEA's) 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 sustainability of the model program after the end of the grant period; and
- Creates and offers a meaningful credential for students with intellectual disabilities upon completion of the program.

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

- 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; and
- Reporting to the United State Secretary of Education an analysis of the condition of postsecondary success for students with disabilities.

The act also establishes a national coordinating center for institutions of higher education that offer inclusive CTP programs for students with intellectual disabilities, including those participating in TPSID grants.¹⁷ Think College, a project of the Institute for Community Inclusion at the University of Massachusetts – Boston, was selected in October 2010, to provide support, coordination, training and evaluation services to the TPSID grant recipients.¹⁸

State Law

Florida law provides for students with disabilities to be eligible for reasonable substitution of any requirement for admission to postsecondary educational institutions if the student can provide documentation that the failure to meet the requirement is related to the disability.¹⁹ While Florida law allows for "reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division", these substitutions may not constitute a fundamental alteration in the nature of the program.²⁰ Additionally, to be eligible for state student financial aid awards, students must meet specified eligibility criteria, which includes minimum number of credit hours per term or the equivalent.²¹

There are currently 17 non-traditional postsecondary program options available across Florida for students with documented developmental disabilities²² that provide activities such as auditing postsecondary courses, enrolling in vocational courses, participating in campus life, and job placement programs.²³ Of these programs:

- Nine are available to students who are no longer enrolled in district ESE programs. In the 2013-14 year, 222 students were enrolled and 125 graduated. Of these 125 graduates, 41 students, or 33 percent, were employed and another 6 students, or 8 percent, received industry

¹⁵ 20 U.S.C. s. 1140q(a).

¹⁶ 20 U.S.C. s. 1140q(a)(4).

¹⁷ 20 U.S.C. s. 1140q(b) and i(b).

¹⁸ Think College! *National Coordinating Center and College Options for People with Intellectual Disabilities*, <http://www.thinkcollege.net> (last visited Feb. 16, 2015).

¹⁹ s. 1007.264, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²⁰ s. 1007.265, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²¹ s. 1009.40, F.S.

²² 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.

²³ 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 at 15 of 29.

certification, went on to other postsecondary options or pursued a GED. The cost to the student for these programs range from \$0 to as high as \$10,000.²⁴

- Eight are available to students through age 21 who are still receiving district ESE services. In the 2013-14 year, 85 students were enrolled and 14 graduated. Of these 14 graduates, 10 students, or 67 percent, were employed and another 2 students, or 13 percent, were enrolled in postsecondary education.²⁵ Since these students still receive district ESE services, there is no program cost to the student.

None of the 17 programs offered award college credit or a college degree, but some allow students to complete courses that can be applied toward a workforce credential.²⁶

Special Diploma Option

During the 2014 Legislative Session, Senate Bill 850²⁷ repealed section 1003.438, F.S. which eliminated the special diploma as a high school graduation option for students with disabilities, effective July 1, 2015.

Section 1003.438, F.S. does not limit or restrict the right of a student with a disability solely to a special diploma or special certificate of completion. Furthermore, section 1003.5716(2)(a), F.S. requires that the first individual education plan (IEP) in effect for a 16-year-old student must, if the parent deems appropriate, include a statement of intent to pursue a standard high school diploma and a Scholar or Merit designation. This statement of intent may also be included in the IEP for a student who is under 16, if the parent or IEP team deems it appropriate.

The repeal will result in students with disabilities who do not meet the standard diploma requirements being granted a certificate of completion. This may be problematic as some employers require either a standard or special high school diploma for employment. The certificate of completion is not considered a high school diploma and, therefore, some students who would have previously earned a special diploma may no longer be eligible for employment if the repeal takes effect.

The chart on the following page outlines the specific requirements for the standard diploma, special diploma (prior to the 2014 repeal) and the certificate of completion:

²⁴ Program costs reflect base tuition only and does not include the cost of a residential option which ranges from \$11,000-14,000 per year. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flseate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 21 of 85.

²⁵ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flseate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 22 of 85.

²⁶ 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 at 13 of 29.

²⁷ Chapter 2014-184, Laws of Florida

Graduation Requirements for the Standard Diploma 24-Credit and Certificate of Completion Section 1002.4282, Florida Statutes	Special Diploma Prior to the 2014 Legislative Session Option 1 and 2
4 Credits English Language Arts (ELA) ELA I, II, III, IV	<p>A student with a disability who meets all of the requirements of a special diploma option one or option two prescribed by the district school board in their board approved student progression plan and the minimum requirements prescribed by the Commissioner of Education as described in rule 6A-1.00961, F.A.C.</p> <p>Option 1 Demonstration of proficiency at the independent, supported, or participatory level of each standards for Special Diploma standards, as determined through the IEP process, and the completion of the minimum number of course credits for a special diploma as prescribed by the school board.</p> <p>Or For certain students with disabilities mastery of the Standards through successful completion of courses that meet graduation requirements for a standard diploma.</p> <p>Option 2 Allowed for students with disabilities to demonstrate mastery of the standards through employment and community competencies.</p> <p>There were three requirements for this pathway:</p> <ul style="list-style-type: none"> • The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies. • The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester and paid the minimum wage. • The student has mastered the employment and community competencies specified in the training plan.
4 Credits Mathematics One of which must be Algebra I and one of which must be Geometry - Students must pass the Algebra I end-of-course (EOC) or a comparative score on the Postsecondary Education Readiness Test (P.E.R.T.) - Students must participate in the Geometry EOC results constitute 30 percent of the final course grade - Students must participate in the Algebra II EOC results constitute 30 percent of the final course grade (if enrolled)	
3 Credits Science One of which must be Biology I, two of which must have a laboratory component - Students must participate in the Biology I EOC results constitute 30 percent of the final course grade	
3 Credits Social Studies - Students must participate in the U.S. History EOC results constitute 30 percent of the final course grade	
1 Credit Fine and Performing Arts, Speech and Debate or Practical Arts	
1 Credit Physical Education to include the integration of health	
8 Credits Elective	
1 Online Course	
<p>Certificate of Completion A student who earns the required 24 credits, or the required 18 credits under s. 1002.3105(5), F.S. but fails to pass the assessments required under s. 1008.22(3), F.S. or achieve a 2.0 GPA shall be awarded a certificate of completion.</p>	

Effect of Proposed Changes

The bill creates the "Florida Postsecondary Comprehensive Transition Program Act" to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities. Specifically, the bill:

- Establishes a process by which postsecondary institutions may voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- Creates the Florida Center for Students with Unique Abilities (center) as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families.

Florida Postsecondary Comprehensive Transition Program (FPCTP)

FPCTP's are established for students with intellectual disabilities. The bill aligns the state approval requirements with federal requirements for comprehensive transition and postsecondary (CTP)

programs. In addition to the federal requirements, an eligible institution²⁸ must submit the following to the center no later than the academic year immediately following the academic year in which federal approval was granted:

1. An application that includes:
 - Identification of a credential associated with the proposed program that is awarded to a student with an intellectual disability after the student completes the FPCTP;
 - Program length and design that includes, at a minimum, inclusive and experiential education practices related to curricular, assessment, and advising structure and internship and employment opportunities and if a college credit-bearing degree program, at the same rigor and effectiveness of a comparable program offered by the institution;
 - Plan for students with intellectual disabilities to be integrated socially and academically with nondisabled students;
 - Plan for partnerships with businesses to promote experiential training and employment opportunities for students with intellectual disabilities;
 - Identification of performance metrics, as identified by the statewide coordinating center, to measure satisfactory progress of students and performance of the program;
 - A 5-year plan regarding enrollment and operational expectation; and
 - Any other requirement identified by the statewide coordinating center.
2. Documented evidence of a federally approved program that is determined to be eligible for federal student financial aid programs and is currently offered at the institution, documented evidence of the submission of an application for such federal approval, or documentation demonstrating the intent to submit an application within the subsequent academic year.

An institution submitting a renewal application must do so within 3 years following the year during which initial approval was granted.

Currently, no Florida programs are eligible to provide federal financial aid, however Florida Panhandle Technical College has applied and the University of North Florida is working on an application. Students are, however, eligible to receive other financial assistance such as Vocational Rehabilitation funding, institutional funding, local grants or other social service agencies.²⁹

Additional responsibilities of the institutions include the submission of an annual report by August 1st of each year. This report shall address, at a minimum, the program's efforts to recruit and retain students; enrollment, retention and completion data; transition success of completers as measured by employment rates and salary levels at 1 and 5 years after completion; and any other performance indicators identified by the center.

To be eligible to enroll in a FPCTP program, a student must meet the definition of a "student with an intellectual disability" as defined in 20 U.S.C. s. 1140(2), physically attend the eligible institution, and submit to the institution documentation regarding his or her intellectual disability.

The Florida Center for Students with Unique Abilities

This bill creates the Florida Center for Students with Unique Abilities (center) at the University of Central Florida. The duties of the center include, but are not limited to:

- Disseminating information regarding education programs, services and resources available at eligible institutions; support, accommodations, technical assistance or training provided by eligible institutions, the advisory council or regional autism centers; and mentoring, networking and employment opportunities;

²⁸ The bill 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 is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

²⁹ Office of Program Policy Analysis and Government Accountability, OPPAGA Review of Postsecondary Options for Students with Developmental Disabilities, at 19 of 142 (February 2015).

- Coordinating, facilitating and overseeing statewide implementation including creating the application and deadlines for the submission, review and approval of applications;
- Consulting and collaborating with the National Center and the Coordination Center regarding guidelines for effective implementation of the programs which align with federal requirements and standards, quality indicators and benchmarks;
- Consulting and collaborating with the Higher Education Coordinating Council to identify meaningful credentials and engage businesses and stakeholders to promote experiential training and employment opportunities to students with intellectual disabilities;
- Providing technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors and staff at eligible institutions;
- Administering the scholarship program; and
- Planning, advising and evaluating approved programs and student performance.

The director of the center shall oversee the approval of CTP programs and review all applications for both initial and renewal program proposals submitted by an institution. Within 30 days of receipt of the application, the director shall make a recommendation regarding approval of state university programs to the State University System Chancellor and all other programs to the Commissioner of Education or give written notice to the applicant regarding application deficiencies. In the event of notice of application deficiencies, the applicant has 15 days to correct the application and submit a revised application, at such time the director has 30 days from the time of receipt to make a recommendation. The State University System Chancellor or Commissioner of Education, as appropriate, has 15 days after receipt of the recommendation to approve or disapprove the recommendation. If no action is taken, the program will be considered approved.

The center, in collaboration with the Board of Governors and the State Board of Education, shall identify indicators for satisfactory academic progress and performance of FPCTP programs.

The center shall report to the Governor, President of the Senate, Speaker of the House of Representatives, Chancellor of the State University System and Commissioner of Education, by October 1 of each year, the following:

- Status of the statewide coordination and implementation of FPCTPs, including the number of applications approved and disapproved and reasons for each disapproval or no action taken by the Chancellor or Commissioner;
- Indicators identified and performance of each eligible institution;
- Projected number of students with intellectual disabilities eligible to enroll within the next academic year; and
- Education programs and services for students with intellectual disabilities available at an eligible institution.

Beginning in the 2015-16 fiscal year, the center, in collaboration with the Board of Governors, State Board of Education, Higher Education Coordinating Council and other stakeholders, shall submit to the Governor, President of the Senate, and Speaker of the House of Representative, statutory or budget recommendations for improving the implementation and delivery of FPCTPs by December 1 of each year.

Special Diploma

The bill restores the special diploma as a high school graduation option for students with disabilities by abrogating the repeal of s. 1003.438, F.S. (scheduled to take effect July 1, 2015).

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.6501, F.S., establishing the Florida Postsecondary Comprehensive Transition Program and the Florida Center for Students with Unique Abilities.

Section 2. Abrogates the repeal of s. 1003.438, F.S. regarding the special diploma option for students with disabilities.

Section 3. Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill establishes the Florida Center for Students with Unique Abilities at the University of Central Florida beginning in the 2015-16 fiscal year. The bill requires the center, in collaboration with other stakeholders, to make a budget recommendation by December 1st of each year. The University of Central Florida will establish the center, hire staff and become operational. The proposed House FY 2015-16 General Appropriations Act (PCB APC 15-01) appropriates \$1,000,000 in recurring general revenue funds to the University of Central Florida for the center.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In 2013-14, 222 students with disabilities enrolled in non-traditional postsecondary education programs across the state. The cost of base tuition for these programs range from no cost to as high as \$10,000 with residential options costing approximately \$11,000-14,000 per student.

The addition of the Florida Comprehensive Transition Program and the Florida Center for Students with Unique Abilities has the potential to positively impact students with intellectual and other disabilities across the state by increasing living, inclusive and experiential postsecondary education, and employment opportunities likely resulting in the ability for these individuals to obtain gainful employment and earn higher wages.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill requires the Board of Governors and the State Board of Education to consult with the center to expeditiously adopt regulations and rules, as applicable, to allow the center to perform its responsibilities beginning in the 2015-16 fiscal year.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to postsecondary options for students
 3 with disabilities; creating s. 1004.6501, F.S.;
 4 providing a short title; providing purposes and
 5 legislative intent; defining terms; establishing the
 6 Florida Center for Students with Unique Abilities;
 7 providing center duties and responsibilities;
 8 providing for Florida Postsecondary Comprehensive
 9 Transition Programs at eligible institutions;
 10 requiring the center to oversee the programs;
 11 providing for application, application submission
 12 deadlines, and approval and renewal process for the
 13 programs; requiring certain information to be included
 14 on the application; requiring the programs to provide
 15 certain notification and to submit an annual report;
 16 providing student eligibility for program admittance;
 17 requiring the center to provide a report to the
 18 Governor, Legislature, Chancellor of the State
 19 University System, and Commissioner of Education and
 20 to provide certain recommendations to the Legislature;
 21 providing for rulemaking; repealing s. 19, chapter
 22 2014-184, Laws of Florida; abrogating the scheduled
 23 repeal of s. 1003.438, F.S., relating to special high
 24 school graduation requirements for certain exceptional
 25 students; providing an effective date.
 26

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

28

29 Section 1. Section 1004.6501, Florida Statutes, is created
30 to read:

31 1004.6501 Florida Postsecondary Comprehensive Transition
32 Program and Florida Center for Students with Unique Abilities.-

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

36 (2) PURPOSE AND LEGISLATIVE INTENT.-The purpose of this
37 section is to increase independent living, inclusive and
38 successful experiential postsecondary education, and employment
39 opportunities for students with intellectual disabilities
40 through degree, certificate, and nondegree programs and to
41 establish statewide coordination of the dissemination of
42 information regarding programs and services for students with
43 disabilities. It is the intent of the Legislature that students
44 with intellectual disabilities and students with disabilities be
45 provided the opportunity to obtain important postsecondary
46 education credentials and participate in meaningful campus
47 experiences.

48 (3) DEFINITIONS.-As used in this section, the term:

49 (a) "Center" means the Florida Center for Students with
50 Unique Abilities.

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

52 (c) "Eligible institution" means a state university, a

53 Florida College System institution, a career center, a charter
 54 technical career center, or an independent college or university
 55 that is eligible to participate in the William L. Boyd, IV,
 56 Florida Resident Access Grant Program.

57 (d) "FPCTP" means a Florida Postsecondary Comprehensive
 58 Transition Program that is approved pursuant to subsection (5)
 59 and offered by an eligible institution.

60 (e) "Transitional student" means a student who is at least
 61 18 but not older than 26 years of age who meets the eligibility
 62 requirements of paragraph (5) (e).

63 (4) FLORIDA CENTER FOR STUDENTS WITH UNIQUE ABILITIES.—
 64 There is established within the University of Central Florida
 65 the Florida Center for Students with Unique Abilities. The
 66 center shall:

67 (a) Disseminate information to students with disabilities
 68 and their parents, which must include, but is not limited to,
 69 information relating to:

70 1. Education programs, services, and resources that are
 71 available at eligible institutions.

72 2. Supports, accommodations, technical assistance, and
 73 training programs provided by eligible institutions, the
 74 advisory council established under s. 383.141, and regional
 75 autism centers established under s. 1004.55.

76 3. Mentoring, networking, and employment opportunities.

77 (b) Coordinate, facilitate, and oversee the statewide
 78 implementation of this section, including, but not limited to,

79 creating the application, deadlines for the submission of an
80 application, and the approval and renewal process for an FPCTP
81 under subsection (5).

82 (c) Consult and collaborate with the National Center for
83 Information and Technical Support for Postsecondary Students
84 with Disabilities and the coordinating center established under
85 20 U.S.C. s. 1140q regarding guidelines established by the
86 Florida Center for Students with Unique Abilities for the
87 effective implementation of programs for students with
88 disabilities and for students with intellectual disabilities
89 that align with the federal requirements and standards, quality
90 indicators, and benchmarks identified by the National Center for
91 Information and Technical Support for Postsecondary Students
92 with Disabilities and the coordinating center.

93 (d) Consult and collaborate with the Higher Education
94 Coordinating Council to identify important credentials for
95 FPCTPs and to engage businesses and stakeholders in the
96 promotion of experiential training and employment opportunities
97 for students with intellectual disabilities.

98 (e) Provide information and technical assistance to
99 administrators, instructors, staff, and other interested parties
100 at an eligible institution relating to programs and services for
101 students with intellectual disabilities, which must include, but
102 are not limited to:

103 1. Holding meetings and annual workshops to share
104 successful practices and address issues or concerns.

105 2. Facilitating collaboration between eligible
 106 institutions, school districts, private schools, and the parents
 107 of students enrolled in home education programs to better assist
 108 students with intellectual disabilities and their parents in
 109 planning for the transition of such students into an FPCTP or
 110 another program at an eligible institution.

111 3. Assisting eligible institutions with FPCTP and federal
 112 comprehensive transition and postsecondary program applications.

113 4. Assisting eligible institutions with the identification
 114 of funding sources for an FPCTP and for student financial
 115 assistance for students enrolled in an FPCTP.

116 5. Monitoring federal and state law relating to the
 117 comprehensive transition program and notifying the Legislature,
 118 the Governor, the Board of Governors, and the State Board of
 119 Education of any change in law that may impact the
 120 implementation of this section.

121 (f) Plan, advise, and evaluate approved degree,
 122 certificate, and nondegree programs and evaluate the performance
 123 of students and FPCTPs using the performance indicators included
 124 in the application pursuant to subparagraph (5)(c)6.

125 (5) FLORIDA POSTSECONDARY COMPREHENSIVE TRANSITION
 126 PROGRAMS.—Any eligible institution desiring to offer an FPCTP
 127 shall submit an application to the center in a manner prescribed
 128 by the center. The application must be approved by the eligible
 129 institution's governing board and be submitted by the
 130 institution's president or director by a date established by the

131 | center.

132 | (a) Notwithstanding the program approval requirements of
 133 | s. 1004.03, within 30 days after receipt of an application from
 134 | an eligible institution to offer an FPCTP, the director shall
 135 | issue a recommendation for approval of the application to the
 136 | Chancellor of the State University System, if the institution is
 137 | a state university, or the Commissioner of Education, for all
 138 | other eligible institutions, or give written notice to the
 139 | eligible institution of any deficiencies in the application.
 140 | Within 15 days after receipt of the notice of deficiencies, the
 141 | eligible institution shall correct the deficiencies and return
 142 | the application to the center or withdraw the application from
 143 | consideration. Upon receipt of the revised application, the
 144 | director shall, within 30 days, recommend approval or
 145 | disapproval of the revised application to the chancellor or
 146 | commissioner, as applicable. Within 15 days after receipt of the
 147 | director's recommendation, the chancellor or commissioner shall
 148 | approve or disapprove the eligible institution's application. If
 149 | the chancellor or commissioner does not take action within the
 150 | 15-day period, the application shall be considered approved.

151 | (b) Initial approval of an FPCTP is valid for the 3
 152 | academic years immediately following the academic year in which
 153 | the approval is granted. An eligible institution may submit, in
 154 | the same manner as the initial application, an application for
 155 | renewal of an FPCTP. The application for renewal must be
 156 | submitted before the end of the initial 3-year period. If the

157 eligible institution and the FPCTP continue to meet the
158 requirements of this section, a renewal shall be granted for an
159 additional 5 academic years. The renewal period shall begin at
160 the end of the original approval period.

161 (c) The application developed by the center must:

162 1. Address the requirements of the federal comprehensive
163 transition and postsecondary program in 20 U.S.C. s. 1140 and
164 this section.

165 2. Identify the credential awarded to a student with an
166 intellectual disability upon completion of an FPCTP if he or she
167 meets the eligibility requirements of paragraph (e).

168 3. Outline the length and design of an FPCTP, including,
169 but not limited to, inclusive and successful experiential
170 postsecondary education practices relating to curricular,
171 assessment, and advising structure and internship and employment
172 opportunities that support a student with an intellectual
173 disability who is seeking to continue academic, career,
174 technical, and independent living instruction at an eligible
175 institution, including, but not limited to, opportunities to
176 earn industry certifications, to prepare such student for
177 gainful employment. If an eligible institution offers a credit-
178 bearing degree program, the institution is responsible for
179 maintaining the rigor and effectiveness of a comprehensive
180 transition degree program at the same level as other comparable
181 degree programs offered by the institution pursuant to
182 applicable accreditation standards.

- 183 4. Address the ways in which students with intellectual
 184 disabilities will be socially and academically integrated, to
 185 the maximum extent possible, with nondisabled students, which
 186 must be on at least a half-time basis. Such integration must
 187 include one or more of the following for such students:
- 188 a. Regular enrollment in credit-bearing courses at an
 189 eligible institution.
- 190 b. Audit of or participation in noncredit-bearing courses
 191 at an eligible institution.
- 192 c. Enrollment in noncredit-bearing, nondegree courses at
 193 an eligible institution.
- 194 d. Participation in internships or employment training
 195 programs.
- 196 5. Identify a plan for partnerships with businesses to
 197 promote experiential training and employment opportunities for a
 198 student with an intellectual disability.
- 199 6. Identify, after collaboration with the Board of
 200 Governors and the State Board of Education, performance
 201 indicators for the satisfactory progress of a student with an
 202 intellectual disability in an FPCTP and for the performance of
 203 an FPCTP and any other requirements specified by the center.
 204 Each eligible institution must address the performance
 205 indicators identified by the center in its application for the
 206 approval and renewal of a proposed FPCTP and in the annual
 207 report that the institution submits to the center.
- 208 7. Outline a 5-year plan incorporating enrollment and

209 operational expectations for an FPCTP.

210 8. Include documented evidence of a federally approved
 211 comprehensive transition and postsecondary program that is
 212 determined to be an eligible program for the federal student aid
 213 programs and is currently offered at the institution, documented
 214 evidence of the submission of an application for such federal
 215 approval of a comprehensive transition and postsecondary program
 216 proposed by the institution, or documentation demonstrating the
 217 commitment of the institution's governing board to submit an
 218 application within the subsequent academic year for federal
 219 approval of a comprehensive transition and postsecondary program
 220 proposed by the institution pursuant to 20 U.S.C. s. 1140.

221 (d) Upon approval of an application, an eligible
 222 institution must notify students with intellectual disabilities
 223 and their parents of the FPCTP and student eligibility
 224 requirements for participation in the FPCTP.

225 (e) To be eligible to enroll in an FPCTP at an eligible
 226 institution, a student must, as determined by the institution
 227 and based on guidelines established by the center:

228 1. Be a student with an intellectual disability as defined
 229 in 20 U.S.C. s. 1140(2), including, but not limited to, a
 230 transitional student.

231 2. Physically attend the eligible institution.

232 3. Submit to the eligible institution documentation
 233 regarding his or her intellectual disability. Such documentation
 234 may include, but not be limited to, a current individualized

235 plan for employment associated with a review completed pursuant
 236 to s. 413.20(3) or a diagnosis from a physician licensed under
 237 chapter 458 or chapter 459 or a psychologist licensed under
 238 chapter 490.

239 (f) By August 1 of each year, an eligible institution with
 240 an FPCTP shall submit an annual report to the center that, at a
 241 minimum, addresses the following performance indicators for the
 242 previous academic year:

243 1. Efforts to recruit students to enroll in the FPCTP and
 244 the number of students enrolled in the FPCTP.

245 2. Efforts to retain student enrollment in the FPCTP and
 246 the retention rate of students in the FPCTP.

247 3. The completion rate of students enrolled in the FPCTP
 248 and related courses, as applicable.

249 4. Transition success of students who complete the FPCTP,
 250 as measured by employment rates and salary levels at 1 year and
 251 5 years after completion, as available.

252 5. Other performance indicators identified by the center
 253 under subparagraph (c)6.

254 (6) ACCOUNTABILITY.—

255 (a) By October 1 of each year, the center shall provide to
 256 the Governor, the President of the Senate, the Speaker of the
 257 House of Representatives, the Chancellor of the State University
 258 System, and the Commissioner of Education a report that
 259 includes, but is not limited to:

260 1. The status of the statewide coordination of FPCTPs and

261 the implementation of FPCTPs at eligible institutions including,
262 but not limited to, the number of applications approved or
263 disapproved, the reasons for each disapproval, and the number of
264 applications on which no action was taken by the chancellor or
265 the commissioner, as applicable.

266 2. Performance indicators identified by the center under
267 subparagraph (5)(c)6. and the performance of each eligible
268 institution based on such indicators.

269 3. The projected number of students with intellectual
270 disabilities who may be eligible to enroll in the FPCTPs within
271 the next academic year.

272 4. Education programs and services for students with
273 intellectual disabilities that are available at an eligible
274 institution.

275 (b) Beginning December 1, 2015, and annually thereafter,
276 the center, in collaboration with the Board of Governors, the
277 State Board of Education, the Higher Education Coordinating
278 Council, and other stakeholders, shall submit to the Governor,
279 the President of the Senate, and the Speaker of the House of
280 Representatives statutory and budget recommendations for
281 improving the implementation and delivery of FPCTPs and other
282 education programs and services for students with disabilities.

283 (7) RULES.—The Board of Governors and the State Board of
284 Education, in consultation with the center, shall expeditiously
285 adopt the necessary regulations and rules, as applicable, to
286 allow the center to perform its responsibilities pursuant to

HB 7091

2015

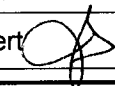

287 | this section beginning in the 2015-2016 fiscal year.

288 | Section 2. Section 19 of chapter 2014-184, Laws of
289 | Florida, is repealed.

290 | Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7095 PCB EDC 15-03 Florida Personal Learning Scholarship Accounts
SPONSOR(S): Education Committee, Bileca
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 0 N	Healy	Mizereck
1) Education Appropriations Subcommittee		Seifert 	Heflin 

SUMMARY ANALYSIS

The 2014 Legislature established the Florida Personal Learning Scholarship Account (PLSA) program to enable parents of students with disabilities to customize their child's education. Parents can request and receive a scholarship that can be used to purchase a wide range of services. Scholarship accounts are established by eligible nonprofit scholarship funding organizations (SFO), and parents are reimbursed for instructional materials, curriculum, and approved services. A total of \$18.4 million was appropriated for the 2014-2015 school year. At the time of this analysis, over 1,500 students are participating in the program. The bill includes a number of provisions that increase access, strengthen accountability, and streamline administration.

The bill increases the pool of eligible applicants by expanding the definition of autism to include all students on the autism spectrum disorder and to include students who have muscular dystrophy.

The bill increases the types of services available to participants, including:

- Tuition and fees for part-time tutoring services provided by a certified teacher; a certified adjunct teacher; or an individual who demonstrates mastery of subject area knowledge.
- Fees for an annual evaluation of educational progress for home education students.
- Fees associated with use of an electronic payment system.

The bill strengthens accountability by:

- Clarifying that funds must be expended for the student's educational needs.
- Outlining specific criteria for when payments to a personal learning scholarship account would cease and when an account is closed and funds revert to the state.
- Requiring review of all expenditures prior to reimbursement.
- Authorizing the Commissioner of Education to deny, suspend, or revoke program participation or use of program funds in specified circumstances.
- Requiring that a high-risk child who reaches 6 years of age has documentation of an eligible disability in order to continue in the program.
- Requiring the Auditor General to provide a copy of the annual operational audit to the Commissioner of Education.

Among other provisions, the bill streamlines program administration by removing obsolete language for implementation of the program for the 2014-2015 school year, specifying that appropriated funds be made available earlier in the fiscal year, and ensuring eligible students who participated in the previous year are given priority for re-enrollment in subsequent years.

The PLSA is provided on a first-come, first-served basis based upon funding provided in the GAA. The Proposed Committee Bill GAA provides \$31.9 million in recurring funding for this program. See Fiscal Analysis & Economic Impact Statement.

The bill takes effect July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Personal Learning Scholarship Account

The 2014 Legislature created the Florida Personal Learning Scholarship Account (PLSA) program to provide parents of students with disabilities more flexibility to customize their child's education.¹ Funds are distributed to qualified² Scholarship Funding Organizations (SFO) to establish accounts for eligible students.³ Parents can use funds from their account to choose from a variety of approved items for their student including, but not limited to: specialized services, curriculum, instructional materials, tuition, and contracted services.⁴ A total of \$18.4 million was allocated for the 2014-15 school year.⁵

Student Eligibility

Present Situation

The parent of a student, who is a resident of this state, may request and receive an account if the student:

- Is eligible to enroll in kindergarten through 12th grade in a public school in this state;
- Has one of the following disabilities: autism, cerebral palsy, down syndrome, an intellectual disability, Prader-Willi syndrome, or spina bifida, Williams syndrome; or for a student in kindergarten, as a high-risk child⁶; and
- Has an Individual Education Plan (IEP) written in accordance with rules of the state board or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.⁷

A student is not eligible for the program:

- While enrolled in a public school;
- While enrolled in a Department of Juvenile Justice school commitment program;
- While receiving a scholarship from the Florida Tax Credit Scholarship Program or the McKay Scholarship for Students with Disabilities;
- If the student or parent has accepted any payment, refund, or rebate from a program provider;
- If the Commissioner of Education has denied or revoked the student's participation in the program; or
- If the parent forfeits participation in the program by failing to comply with program requirements.⁸

Parents must apply to an eligible SFO to participate in the program by February 1 before the school year in which the student wishes to participate or an alternative date set by the SFO. The SFO must notify the district and the Department of Education (DOE) of the parent's intent to participate.⁹ The PLSA is provided on a first-come, first-served basis based upon the funding in the General Appropriations Act (GAA).

¹ Section 16, ch. 2014-184, L.O.F.

² Section 1002.385(2)(e), F.S.

³ Section 1002.385, F.S.

⁴ Section 1002.385(5), F.S.

⁵ Specific Appropriation 110, s. 2, ch.2014-51, L.O.F.

⁶ Section 1002.385(2)(d), F.S.

⁷ Section 1002.385(3)(a), F.S.

⁸ Section 1002.385(4), F.S.

⁹ Section 1002.385(3)(b), F.S.

Effect of Proposed Changes

The bill expands the pool of eligible applicants by including students with muscular dystrophy and including a broader definition of autism.

The current statutory definition of "autism" means a pervasive, neurologically based developmental disability of extended duration which causes severe [emphasis added] learning, communication, and behavior disorders with age of 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 [emphasis added] repertoire of activities and interests.¹⁰ This definition requires that the individual exhibit severe and substantial deficits in certain areas.

The new definition of "autism spectrum disorder" as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) includes autism, Asperger's syndrome, and any pervasive developmental disorder not otherwise specified. This broader definition allows students with an Autism Spectrum Disorder with lesser degrees of severity to be eligible for the program.¹¹

The bill clarifies that a high-risk child who reaches six years of age must have documentation of an eligible disability in order to continue in the program.

The bill also provides that an eligible student who participated in the program the prior year be given priority for re-enrollment the following year.

Scholarship Funding Organization Responsibilities

Present Situation

An eligible participating scholarship funding organization is a nonprofit scholarship funding organization that is approved by DOE to participate in the Florida Tax Credit Scholarship Program.¹² An SFO is required to:

- Receive applications, determine student eligibility, and notify the DOE of the applicants by March 1 the year prior to a student's participation.¹³
- Notify parents of their receipt of a scholarship on a first-come, first-served basis.¹⁴
- Establish a date by which a parent must confirm initial or continuing program participation.¹⁵
- Establish a date by which students on the wait list or late-filing applicants may participate, if funds are still available.¹⁶
- Establish and maintain separate accounts for each student.¹⁷
- Verify eligible expenditures.¹⁸
- Return any unused funds to DOE when a student is no longer eligible for the program.¹⁹

An SFO must verify that expenditures for curriculum and instructional materials are eligible before reimbursing a parent for such expenditures. However, an SFO can review expenditures made for all other services after the payment has been made.²⁰

¹⁰ Section 393.063(3), F.S.

¹¹ Email, Florida Department of Education, Independent Education and Parental Choice (March 6, 2015).

¹² Section 1002.385(2)(e), F.S.

¹³ Section 1002.385(12)(a), F.S.

¹⁴ Section 1002.385(12)(b), F.S.

¹⁵ Section 1002.385(12)(c), F.S.

¹⁶ Section 1002.385(12)(d), F.S.

¹⁷ Section 1002.385(12)(e), F.S.

¹⁸ Section 1002.385(12)(f), F.S.

¹⁹ Section 1002.385(12)(g), F.S.

²⁰ Section 1002.385(9)(b), F.S.

Effect of Proposed Changes

The bill requires an SFO to maintain a record of accrued interest that can be retained in each student's account and used for authorized program purchases. Additionally, the SFO must verify that all expenditures are eligible prior to reimbursement to the parent.

Allowable Expenditures

Present Situation

Program funds may be spent for the following purposes:

- Instructional materials and curriculum.
- Specialized services, including but not limited to, applied behavior analysis, speech language pathologist, occupational therapy, physical therapy, and services provided by listening and spoken language specialists.
- Enrollment in, or tuition and fees for enrollment in an eligible private school or postsecondary education institution, a private tutoring program, or virtual education programs or courses.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contributions to the Stanley G. Tate Florida Prepaid College Program.
- Contracted services provided by a public school or school district, including classes.²¹

Effect of Proposed Changes

The bill clarifies that funds must be spent to meet the individual educational needs of the student and expands the types of services available to program participants by including:

- Tuition and fees for part-time tutoring services provided by a Florida certified teacher, a Florida certified adjunct teacher, or a person who has demonstrated a mastery of subject area knowledge in accordance with s. 1012.56(5), F.S.
- Fees for an annual evaluation of educational progress for a home education student.
- Fees associated with the use of an electronic payment system.

Eligible Providers

Present Situation

Entities eligible to provide specialized services or educational programs include:

- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the DOE.²²
- A postsecondary educational institution including a Florida College System institution, a state university, a school district technical center, a school district adult general education center, or an accredited, postsecondary educational institution which is licensed to operate in this state.²³
- A private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida,

²¹ Id.

²² Section 1002.385(2)(a), F.S.

²³ Section 1002.385(2)(f), F.S.

and meets all the requirements of a private school participating in the John M. McKay Scholarship Program or the Florida Tax Credit Scholarship Program.²⁴

Eligible providers may not share, refund, or rebate any money from a student's Personal Learning Scholarship account with the parent or participating student.²⁵

Effect of Proposed Changes

The bill expands eligible providers to include an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program and specified individuals who provide part-time tutoring services.

Parent Responsibilities

Present Situation

Current law requires a parent to sign an agreement with an eligible SFO and annually submit a notarized, sworn compliance statement to the organization to:

- Affirm that the student participating in the PLSA program meets regular school attendance requirements.
- Affirm that program funds are used only for authorized purposes.
- Affirm that the student takes all appropriate standardized assessments, whether enrolled in a private school or a home education program.
- Notify the school district that the student is enrolled in the PLSA program, if the parent chooses to enroll in a home education program.
- Request participation in the program by the date established by the SFO.
- Affirm the student remains in good standing with the provider or school.
- Apply for admission of the student to a private school, if this option is chosen.
- Annually renew participation in the program.
- Affirm the parent will not transfer any college savings funds to another beneficiary.
- Affirm the parent will not take possession of any PLSA funds.
- Maintain a portfolio of records and materials which must be preserved for 2 years and made available for inspection by the district superintendent or designee upon 15 days' written notice.²⁶

Effect of Proposed Changes

The bill clarifies that the parental agreement and sworn, notarized compliance form are not only for enrollment in the program, but are necessary to maintain program eligibility, including receiving and expending program payments. The compliance form must also include language stating that program funds may be used for authorized purposes serving the student's educational needs.

The bill allows a parent to request that their student participate in the statewide, standardized assessments and removes the requirement that all participants maintain a portfolio of records and materials. Only parents who choose to enroll their child in a home education program will have to maintain a portfolio in compliance with current home education law.

Term of the Program

Present Situation

²⁴ Section 1002.385(2)(g), F.S.

²⁵ Section 1002.385(5), F.S.

²⁶ Section 1002.385(11)(a), F.S.

Program payments to a student's PLSA remain in effect until:

- A student participates in any of the prohibited activities outlined in law²⁷;
- The commissioner revokes funds;
- The student returns to public school; or
- The student graduates from high school or turns 22 years old, whichever occurs first.²⁸

A student's account shall be closed and any remaining funds revert to the state:

- When the student graduates from an eligible postsecondary educational institution; or
- After any period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution.

Effect of Proposed Changes

The bill adds the following circumstances under which payments to the account would cease:

- If the parent does not renew program eligibility; or
- If the commissioner denies, suspends, or revokes program participation or use of funds.

The bill clarifies that an account shall be closed, and any remaining funds, including accrued interest or contributions made to the Stanley G. Tate Prepaid College Program, shall revert to the state when:

- A student's program eligibility has been denied or revoked;
- A student's application has been denied by an SFO;
- A student does not enroll in an eligible postsecondary education institution within 4 years after high school graduation or completion; or
- A student is no longer enrolled in an eligible postsecondary institution or a program offered by the institution.
- A student graduates from an eligible postsecondary educational institution.

DOE and Commissioner of Education Responsibilities

Present Situation

The DOE is required to:

- Maintain a list of approved providers.
- Require eligible SFOs to verify eligible expenditures.
- Investigate any written complaint of a program violation.
- Require quarterly reports from SFOs, with specified information.
- Compare lists of PLSA students against public school enrollment lists before payments to a PLSA account.²⁹

Current law outlines the commissioner's role and responsibilities with regard to denying, suspending, or revoking a student's participation in the program or the use of program funds, if the health, safety, or welfare of the student is threatened or fraud is suspected.³⁰ Use of program funds can also be denied, suspended, or revoked for material failure to comply with program requirements.³¹

²⁷ Section 1002.385(4), F.S.

²⁸ Section 1002.385(6), F.S.

²⁹ Section 1002.385(9), F.S.

³⁰ Section 1002.385(10)(a)1. & 2., F.S.

³¹ Section 1002.385(10)(a)3., F.S.

The law identifies several factors that the commissioner may consider in determining whether to deny, suspend, or revoke an entity or its officers' participation in the program or ability to expend funds, including but not limited to:

- Acts or omissions that led to an entity's previous denial or revocation in an education scholarship program;
- Failure to reimburse an SFO for funds improperly received or retained by an entity;
- Imposition of a prior criminal sanction;
- Imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation.

Effect of Proposed Changes

The bill requires DOE to compare the lists of PLSA students to those students participating in the Florida Tax Credit Scholarship Program, the John M. McKay Scholarship Program, and public school enrollment lists throughout the year to avoid duplicate payments and confirm program eligibility.

The bill specifies that the commissioner's authority to deny, suspend, or revoke program participation or use of program funds applies to all of the following: students; SFOs; eligible private schools; eligible postsecondary institutions; approved providers; or any other appropriate party that violates program requirements.

The bill authorizes the commissioner to determine the length of, and conditions for lifting, a suspension or revocation and requires the commissioner to deny or revoke a student's participation in the program if the parent participates in any activities that result in forfeiture of the PLSA. The factors used in determining a denial, suspension, or revocation, would also apply to persons, not just entities and their officers.

Program Administration and Accountability

The bill includes the following provisions to streamline administration and implement guidelines for use in a prepaid college fund:

The bill requires 100% of the appropriated funds for the PLSA program to be released to the DOE in the beginning of the first quarter of each fiscal year. Scholarship payments were delayed in 2014-2015, in part, because funds from the General Appropriations Act are typically released in an equal amount on a quarterly basis.

The bill removes a duplicative requirement that the Auditor General conduct an annual financial audit of an SFO. Current law already requires an SFO to have an annual financial audit conducted by an independent certified public accountant.

The bill directs the Florida Prepaid College Board to develop procedures, contracts, and other required documentation to allow parents to contribute PLSA funds, in conjunction with other funds, to purchase a prepaid college plan. PLSA funds must be tracked and accounted for separately from other funds, must revert to the state if the PLSA account is closed, and may be used only after private payments have been used for prepaid college plan expenditures.

Finally, the bill removes obsolete language regarding the program implementation schedule for the 2014-2015 school year.

Florida Tax Credit Scholarship Program

Present Situation

In order to participate in the Florida Tax Credit (FTC) Scholarship Program, a SFO must meet a number of requirements, including securing a surety bond or letter of credit for a specified amount for initial approval³² and a different specified amount for renewal.³³

If an SFO has participated in the FTC Scholarship Program for at least three years and did not have any negative financial findings in its most recent audit, it may use up to 3 percent of the eligible contributions received during the state fiscal year in which the contributions are collected for administrative expenses.³⁴

Finally, if an SFO is disapproved to participate in the scholarship program, all remaining funds held by that SFO revert to the Department of Revenue for redistribution to other eligible SFOs.³⁵

Effect of Proposed Changes

The bill clarifies that claims against the surety bond or letter of credit may only be made by another eligible SFO to provide scholarships to eligible students.

The bill allows an SFO that has operated a tax credit scholarship program for at least 3 years in any state and has not had any findings of material weakness or material noncompliance in its most recent audit to qualify for the 3 percent administrative fee.

Additionally, any remaining funds held by a SFO that is disapproved from participation must go to other eligible SFOs to provide scholarships to eligible students who transferred from the ineligible SFO.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.385, F.S., to increase access and accountability and streamline administration of the Personal Learning Scholarships Account program.

Section 2. Amends s. 1002.395, F.S., to clarify language regarding surety bonds for nonprofit scholarship-funding organizations.

Section 3. Amends s. 1002.395, F.S., to revise qualifications for a 3 percent administrative fee, and to clarify language regarding the disbursement of surety bonds or letters of credit for SFOs.

Section 4. Amends s. 1009.98, F.S., to require the Florida Prepaid College Board to develop procedures allowing parents to use PLSA funds, in conjunction with other funds, to purchase a prepaid college plan and to develop guidelines for tracking and use of such funds.

Section 5. Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

³² Section 1002.395(16)(a)10., F.S.

³³ Section 1002.395(16)(b)1., F.S.

³⁴ Section 1002.395(6)(j), F.S.

³⁵ Section 1002.395(16)(f), F.S.

2. Expenditures:

The 2014-15 appropriation of \$18.4 million recurring general revenue would continue the funding for the first year cohort of students, 1,616 students through March 13, 2015. The PLSA is provided on a first-come, first-served basis based upon funding appropriated in the GAA. The House proposed GAA appropriates \$31.9 million in recurring general revenue funding for this program³⁶. It is unknown how many additional students will be served by the increased funding.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

³⁶ Specific Appropriation 105, PCB APC 15-01 – General Appropriations Act.

1 A bill to be entitled
 2 An act relating to Florida personal learning
 3 scholarship accounts; amending s. 1002.385, F.S.,
 4 relating to the Florida Personal Learning Scholarship
 5 Accounts Program; revising definitions of the terms
 6 "disability," "eligible postsecondary educational
 7 institution," and "eligible private school" to revise
 8 eligibility for the program; revising requirements for
 9 the authorized uses of program funds, including for
 10 the payment of specified fees; revising provisions
 11 relating to the term of the program; authorizing
 12 payments for program expenditures by a parent to
 13 continue until the account is closed; providing
 14 criteria for account closure; requiring remaining
 15 funds to revert to the state; requiring notice to a
 16 parent upon the closure of the account; providing that
 17 parents of certain students may request an individual
 18 education plan (IEP) meeting and evaluation from the
 19 school district under certain circumstances; requiring
 20 the school district to conduct the meeting and develop
 21 an IEP; deleting certain school district notification
 22 requirements; requiring the Department of Education to
 23 compare specified lists throughout the school year for
 24 certain purposes; revising authority of the
 25 Commissioner of Education to deny, suspend, or revoke
 26 program participation or use of program funds;

27 | revising parent responsibilities for program
 28 | participation; requiring the provision of certain
 29 | documentation for a high-risk child to remain eligible
 30 | for program participation upon attaining a certain
 31 | age; deleting a requirement for a parent to maintain
 32 | certain records and materials for a specified period;
 33 | requiring priority to be given to certain students for
 34 | participation in the program; requiring scholarship-
 35 | funding organizations to maintain records of accrued
 36 | interest in scholarship accounts; requiring program
 37 | funds to be released during the first quarter of each
 38 | fiscal year; deleting a requirement for a financial
 39 | audit; requiring the Auditor General to provide the
 40 | Commissioner of Education with certain information;
 41 | deleting obsolete provisions; amending s. 1002.395,
 42 | F.S., relating to the Florida Tax Credit Scholarship
 43 | Program; revising eligibility for using certain funds
 44 | for administrative expenses for a scholarship-funding
 45 | organization; revising the contents of an application
 46 | for initial approval and renewal; providing for the
 47 | transfer of certain funds to provide scholarships for
 48 | certain students; providing for the deposit of
 49 | transferred funds; requiring that transferred funds be
 50 | disclosed separately in a specific audit; requiring
 51 | that the results of certain audits be submitted to the
 52 | department and Auditor General; amending s. 1009.98,

53 F.S.; requiring the Florida Prepaid College Board to
 54 develop procedures and contracts to allow
 55 contributions from the Florida Personal Learning
 56 Scholarship Accounts Program to be used to purchase
 57 prepaid college plans; providing requirements for such
 58 funds; providing an effective date.

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

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

1002.385 Florida personal learning scholarship accounts.—

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

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

(a) "Approved provider" means a provider approved by the Agency for Persons with Disabilities, a health care practitioner as defined in s. 456.001(4), or a provider approved by the department pursuant to s. 1002.66.

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

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

(d) "Disability" means, for a student in kindergarten to

79 | grade 12, autism spectrum disorder, as defined in the Diagnostic
 80 | and Statistical Manual of Mental Disorders, Fifth Edition,
 81 | published by the American Psychiatric Association ~~s. 393.063(3)~~;
 82 | cerebral palsy, as defined in s. 393.063(4); Down syndrome, as
 83 | defined in s. 393.063(13); an intellectual disability, as
 84 | defined in s. 393.063(21); Prader-Willi syndrome, as defined in
 85 | s. 393.063(25); ~~or~~ spina bifida, as defined in s. 393.063(36);
 86 | for a student in kindergarten, being a high-risk child, as
 87 | defined in s. 393.063(20)(a); ~~and~~ Williams syndrome; or muscular
 88 | dystrophy.

89 | (e) "Eligible nonprofit scholarship-funding organization"
 90 | or "organization" has the same meaning as in s. 1002.395.

91 | (f) "Eligible postsecondary educational institution" means
 92 | a Florida College System institution, a state university, a
 93 | school district technical center, a school district adult
 94 | general education center, an institution that is eligible to
 95 | participate in the William L. Boyd, IV, Florida Resident Access
 96 | Grant Program under s. 1009.89, or an accredited independent
 97 | ~~nonpublic~~ postsecondary educational institution, as defined in
 98 | s. 1005.02, which is licensed to operate in the state pursuant
 99 | to requirements specified in part III of chapter 1005.

100 | (g) "Eligible private school" means a private school, as
 101 | defined in s. 1002.01, which is located in this state, which
 102 | offers an education to students in any grade from kindergarten
 103 | to grade 12, and which meets requirements of:

104 | 1. Sections 1002.42 and 1002.421; and

105 2. A scholarship program under s. 1002.39 or s. 1002.395,
 106 ~~as applicable, if the private school participates in a~~
 107 ~~scholarship program under s. 1002.39 or s. 1002.395.~~

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

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

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

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

117 (a) The student:

- 118 1. Is a resident of this state;
- 119 2. Is eligible to enroll in kindergarten through grade 12
 120 in a public school in this state;
- 121 3. Has a disability as defined in paragraph (2)(d); and
- 122 4. Is the subject of an IEP written in accordance with
 123 rules of the State Board of Education or has received a
 124 diagnosis of a disability as defined in subsection (2) from a
 125 physician who is licensed under chapter 458 or chapter 459 or a
 126 psychologist who is licensed under chapter 490 ~~in this state~~.

127 (b) Beginning January 2015, the parent has applied to an
 128 eligible nonprofit scholarship-funding organization to
 129 participate in the program by February 1 before the school year
 130 in which the student will participate or an alternative date as

131 set by the organization for any vacant, funded slots. The
 132 request must be communicated directly to the organization in a
 133 manner that creates a written or electronic record of the
 134 request and the date of receipt of the request. The organization
 135 shall notify the district and the department of the parent's
 136 intent upon receipt of the parent's request.

137 (4) PROGRAM PROHIBITIONS.—

138 (a) A student is not eligible for the program while he or
 139 she is:

140 1. Enrolled in a public school, including, but not limited
 141 to, the Florida School for the Deaf and the Blind; the Florida
 142 Virtual School; the College-Preparatory Boarding Academy; a
 143 developmental research school authorized under s. 1002.32; a
 144 charter school authorized under s. 1002.33, s. 1002.331, or s.
 145 1002.332; or a virtual education program authorized under s.
 146 1002.45;

147 2. Enrolled in a school operating for the purpose of
 148 providing educational services to youth in the Department of
 149 Juvenile Justice commitment programs;

150 3. Receiving a scholarship pursuant to the Florida Tax
 151 Credit Scholarship Program under s. 1002.395 or the John M.
 152 McKay Scholarships for Students with Disabilities Program under
 153 s. 1002.39; or

154 4. Receiving any other educational scholarship pursuant to
 155 this chapter.

156 (b) A student is not eligible for the program if:

157 1. The student or student's parent has accepted any
 158 payment, refund, or rebate, in any manner, from a provider of
 159 any services received pursuant to subsection (5);

160 2. The student's participation in the program has been
 161 denied or revoked by the Commissioner of Education pursuant to
 162 subsection (10); or

163 3. The student's parent has forfeited participation in the
 164 program for failure to comply with requirements pursuant to
 165 subsection (11).

166 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
 167 be used to meet the individual educational needs of an eligible
 168 student and may be spent for the following purposes:

169 (a) Instructional materials, including digital devices,
 170 digital periphery devices, and assistive technology devices that
 171 allow a student to access instruction or instructional content.

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

173 (c) Specialized services by approved providers that are
 174 selected by the parent. These specialized services may include,
 175 but are not limited to:

176 1. Applied behavior analysis services as provided in ss.
 177 627.6686 and 641.31098.

178 2. Services provided by speech-language pathologists as
 179 defined in s. 468.1125.

180 3. Occupational therapy services as defined in s. 468.203.

181 4. Services provided by physical therapists as defined in
 182 s. 486.021.

183 5. Services provided by listening and spoken language
 184 specialists and an appropriate acoustical environment for a
 185 child who is deaf or hard of hearing and who has received an
 186 implant or assistive hearing device.

187 (d) Enrollment in, or tuition or fees associated with
 188 enrollment in, an eligible private school, an eligible
 189 postsecondary educational institution or a program offered by an
 190 eligible postsecondary educational institution, a private
 191 tutoring program authorized under s. 1002.43, a virtual program
 192 offered by a department-approved private online provider that
 193 meets the provider qualifications specified in s. 1002.45(2)(a),
 194 the Florida Virtual School as a private paying student, or an
 195 approved online course offered pursuant to s. 1003.499 or s.
 196 1004.0961.

197 (e) Fees for nationally standardized, norm-referenced
 198 achievement tests, Advanced Placement Examinations, industry
 199 certification examinations, assessments related to postsecondary
 200 education, or other assessments.

201 (f) Contributions to the Stanley G. Tate Florida Prepaid
 202 College Program pursuant to s. 1009.98, for the benefit of the
 203 eligible student.

204 (g) Contracted services provided by a public school or
 205 school district, including classes. A student who receives
 206 services under a contract under this paragraph is not considered
 207 enrolled in a public school for eligibility purposes as
 208 specified in subsection (4).

209 (h) Tuition and fees for part-time tutoring services
 210 provided by a person who holds a valid Florida educator's
 211 certificate pursuant to s. 1012.56, a person who holds an
 212 adjunct teaching certificate pursuant to s. 1012.57, or a person
 213 who has demonstrated a mastery of subject area knowledge
 214 pursuant to s. 1012.56(5). For purposes of this paragraph, the
 215 term "part-time tutoring services" does not satisfy regular
 216 school attendance as defined in s. 1003.01(13)(e).

217 (i) Fees for an annual evaluation of educational progress
 218 under s. 1002.41(1)(c).

219 (j) Fees associated with the use of an electronic payment
 220 system under paragraph (13)(c).

221
 222 A specialized service provider, eligible private school,
 223 eligible postsecondary educational institution, private tutoring
 224 program provider, online or virtual program provider, public
 225 school, school district, or other entity receiving payments
 226 pursuant to this subsection may not share, refund, or rebate any
 227 moneys from the Florida Personal learning scholarship account
 228 with the parent or participating student in any manner.

229 (6) TERM OF THE PROGRAM.—For purposes of continuity of
 230 educational choice and program integrity:

231 (a) The program payments made by the state to an
 232 organization for a personal learning scholarship account under
 233 this section shall continue ~~remain in force~~ until the parent
 234 does not renew program eligibility; the eligible nonprofit

235 scholarship-funding organization determines that a student is
 236 not eligible for program renewal; the Commissioner of Education
 237 denies, suspends, or revokes program participation or the use of
 238 funds; or a student participating in the program participates in
 239 any of the prohibited activities specified in subsection (4),
 240 ~~has funds revoked by the Commissioner of Education pursuant to~~
 241 ~~subsection (10),~~ returns to a public school, graduates from high
 242 school, or attains 22 years of age, whichever occurs first. A
 243 participating student who enrolls in a public school or public
 244 school program is considered to have returned to a public school
 245 for the purpose of determining the end of the program's term.

246 (b) Payments for program expenditures by a parent from the
 247 personal learning scholarship account may continue until a
 248 student's personal learning scholarship account is closed
 249 pursuant to paragraph (c).

250 (c) A student's personal learning scholarship account
 251 shall be closed, and any remaining funds, including accrued
 252 interest or contributions made to the Stanley G. Tate Florida
 253 Prepaid College Program using program funds pursuant to
 254 paragraph (5)(f), shall revert to the state if:

255 1. The student's program eligibility is denied or revoked;
 256 2. The eligible nonprofit scholarship-funding organization
 257 denies the student's application;

258 3. The student does not enroll in an eligible
 259 postsecondary education institution within 4 years after high
 260 school graduation or completion;

261 4. The student is no longer enrolled in an eligible
 262 postsecondary educational institution or a program offered by
 263 the institution; or

264 5. The student graduates from an eligible postsecondary
 265 educational institution.

266

267 The eligible nonprofit scholarship-funding organization must
 268 notify a parent when a personal learning scholarship account is
 269 closed.

270 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

271 (a)1. For a student with a disability who does not have an
 272 IEP in accordance with subparagraph (3)(a)4., a matrix of
 273 ~~services under s. 1011.62(1)(e) and for whom~~ the parent may
 274 request an IEP meeting and evaluation from the school district.
 275 The school district shall conduct a meeting and develop an IEP
 276 in accordance with rules of the State Board of Education. Upon
 277 completion of the IEP requests a matrix of services, the school
 278 district must complete a matrix that assigns the student to one
 279 of the levels of service as they existed before the 2000-2001
 280 school year.

281 ~~2.a. Within 10 school days after a school district~~
 282 ~~receives notification of a parent's request for completion of a~~
 283 ~~matrix of services, the school district must notify the~~
 284 ~~student's parent if the matrix of services has not been~~
 285 ~~completed and inform the parent that the district is required to~~
 286 ~~complete the matrix within 30 days after receiving notice of the~~

287 ~~parent's request for the matrix of services. This notice must~~
 288 ~~include the required completion date for the matrix.~~

289 a.b. The school district shall complete the matrix of
 290 services for a student whose parent has made a request. The
 291 school district must provide the student's parent with the
 292 student's matrix level within 10 school days after its
 293 completion.

294 b.e. The department shall notify the parent and the
 295 eligible nonprofit scholarship-funding organization of the
 296 amount of the funds awarded within 10 days after receiving the
 297 school district's notification of the student's matrix level.

298 c.d. A school district may change a matrix of services
 299 only if the change is to correct a technical, typographical, or
 300 calculation error.

301 (b) For each student participating in the program who
 302 chooses to participate in statewide, standardized assessments
 303 under s. 1008.22 or the Florida Alternate Assessment, the school
 304 district in which the student resides must notify the student
 305 and his or her parent about the locations and times to take all
 306 statewide, standardized assessments.

307 ~~(c) For each student participating in the program, a~~
 308 ~~school district shall notify the parent about the availability~~
 309 ~~of a reevaluation at least every 3 years.~~

310 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 311 eligible private school may be sectarian or nonsectarian and
 312 shall:

313 (a) Comply with all requirements for private schools
 314 participating in state school choice scholarship programs
 315 pursuant to s. 1002.421.

316 (b) Provide to the eligible nonprofit scholarship-funding
 317 organization, upon request, all documentation required for the
 318 student's participation, including the private school's and
 319 student's fee schedules.

320 (c) Be academically accountable to the parent for meeting
 321 the educational needs of the student by:

322 1. At a minimum, annually providing to the parent a
 323 written explanation of the student's progress.

324 2. Annually administering or making provision for students
 325 participating in the program in grades 3 through 10 to take one
 326 of the nationally norm-referenced tests identified by the
 327 Department of Education or the statewide assessments pursuant to
 328 s. 1008.22. Students with disabilities for whom standardized
 329 testing is not appropriate are exempt from this requirement. A
 330 participating private school shall report a student's scores to
 331 the parent.

332 3. Cooperating with the scholarship student whose parent
 333 chooses to have the student participate in the statewide
 334 assessments pursuant to s. 1008.22 or, if a private school
 335 chooses to offer the statewide assessments, administering the
 336 assessments at the school.

337 a. A participating private school may choose to offer and
 338 administer the statewide assessments to all students who attend

339 the private school in grades 3 through 10.

340 b. A participating private school shall submit a request
 341 in writing to the Department of Education by March 1 of each
 342 year in order to administer the statewide assessments in the
 343 subsequent school year.

344 (d) Employ or contract with teachers who have regular and
 345 direct contact with each student receiving a scholarship under
 346 this section at the school's physical location.

347 (e) Annually contract with an independent certified public
 348 accountant to perform the agreed-upon procedures developed under
 349 s. 1002.395(6)(o) ~~1002.395(6)(n)~~ and produce a report of the
 350 results if the private school receives more than \$250,000 in
 351 funds from scholarships awarded under this section in the 2014-
 352 2015 state fiscal year or a state fiscal year thereafter. A
 353 private school subject to this paragraph must submit the report
 354 by September 15, 2015, and annually thereafter to the eligible
 355 nonprofit scholarship-funding organization that awarded the
 356 majority of the school's scholarship funds. The agreed-upon
 357 procedures must be conducted in accordance with attestation
 358 standards established by the American Institute of Certified
 359 Public Accountants.

360

361 The inability of a private school to meet the requirements of
 362 this subsection constitutes a basis for the ineligibility of the
 363 private school to participate in the program as determined by
 364 the department.

365 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 366 shall:

367 (a) Maintain a list of approved providers.

368 (b) Require each eligible nonprofit scholarship-funding
 369 organization to verify eligible expenditures before
 370 reimbursement ~~the distribution of funds for any expenditures~~
 371 ~~made pursuant to paragraphs (5) (a) and (b).~~ Review of
 372 ~~expenditures made for services in paragraphs (5) (c)–(g) may be~~
 373 ~~completed after the payment has been made.~~

374 (c) Investigate any written complaint of a violation of
 375 this section in accordance with the process established by s.
 376 1002.395(9) (f).

377 (d) Require quarterly reports by an eligible nonprofit
 378 scholarship-funding organization regarding the number of
 379 students participating in the program, the providers of services
 380 to students, and other information deemed necessary by the
 381 department.

382 (e) Compare the list of students participating in the
 383 program with the public school enrollment lists and the list of
 384 students participating in school choice scholarship programs
 385 established pursuant to this chapter throughout the school year
 386 ~~before each program payment~~ to avoid duplicate payments and
 387 confirm program eligibility.

388 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

389 (a) The Commissioner of Education:

390 1. Shall deny, suspend, or revoke a student's

391 participation in the program if the health, safety, or welfare
 392 of the student is threatened or fraud is suspected.

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

396 3. May ~~deny, suspend, or revoke~~ an authorized use of
 397 program funds for material failure to comply with this section
 398 and applicable State Board of Education ~~department~~ rules if the
 399 noncompliance is correctable within a reasonable period of time.
 400 Otherwise, the commissioner shall ~~deny, suspend,~~ or revoke an
 401 authorized use for failure to materially comply with the law and
 402 rules adopted under this section.

403 4. Shall require compliance by the appropriate party by a
 404 date certain for all nonmaterial failures to comply with this
 405 section and applicable State Board of Education ~~department~~
 406 rules.

407 5. Notwithstanding any other provision of this section,
 408 ~~The commissioner~~ may deny, suspend, or revoke program
 409 participation or the use of program funds by the student or the
 410 participation or eligibility of an organization, eligible
 411 private school, eligible postsecondary educational institution,
 412 approved provider, or other appropriate party for a violation of
 413 this section. The commissioner may determine the length of, and
 414 conditions for lifting, a suspension or revocation specified in
 415 this paragraph under this section thereafter.

416 6. Shall deny or revoke a student's participation in the

417 program upon forfeiture of a personal learning scholarship
418 account pursuant to subsection (11).

419 (b) In determining whether to deny, suspend, ~~or~~ revoke, or
420 lift a suspension or revocation in accordance with this
421 subsection, the commissioner may consider factors that include,
422 but are not limited to, acts or omissions that ~~by a~~
423 ~~participating entity which~~ led to a previous denial, suspension,
424 or revocation of participation in a state or federal program or
425 an education scholarship program; failure to reimburse the
426 eligible nonprofit scholarship-funding organization for program
427 funds improperly received or retained by the entity; imposition
428 of a prior criminal sanction related to the person or entity or
429 its officers or employees; imposition of a civil fine or
430 administrative fine, license revocation or suspension, or
431 program eligibility suspension, termination, or revocation
432 related to a person's or an entity's management or operation; or
433 other types of criminal proceedings in which the person or
434 entity or its officers or employees were found guilty of,
435 regardless of adjudication, or entered a plea of nolo contendere
436 or guilty to, any offense involving fraud, deceit, dishonesty,
437 or moral turpitude.

438 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
439 PARTICIPATION.—A parent who applies for program participation
440 under this section is exercising his or her parental option to
441 determine the appropriate placement or the services that best
442 meet the needs of his or her child. The scholarship award for a

443 student is based on a matrix that assigns the student to support
 444 Level III services. If a parent chooses to request and receive
 445 an IEP and a matrix of services from the school district, the
 446 amount of the payment shall be adjusted as needed, when the
 447 school district completes the matrix.

448 (a) To satisfy and maintain program eligibility ~~enroll an~~
 449 ~~eligible student in the program~~, the parent must sign an
 450 agreement with the eligible nonprofit scholarship-funding
 451 organization and annually submit a notarized, sworn compliance
 452 statement to the organization to:

453 1. Affirm that the student is enrolled in a program that
 454 meets regular school attendance requirements as provided in s.
 455 1003.01(13)(b)-(e) ~~1003.01(13)(b)-(d)~~.

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

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

461 a. If the parent enrolls the child in an eligible private
 462 school, the student must take an assessment selected by the
 463 private school pursuant to s. 1002.395(7)(e) or, if requested by
 464 the parent, the statewide, standardized assessments pursuant to
 465 s. 1002.39(8)(c)2. and (9)(e).

466 b. If the parent enrolls the child in a home education
 467 program, the parent may choose to participate in an assessment
 468 as part of the annual evaluation provided for in s.

469 1002.41(1)(c).

470 4. Notify the school district that the student is
 471 participating in the Personal Learning Scholarship Accounts if
 472 the parent chooses to enroll in a home education program as
 473 provided in s. 1002.41.

474 5. Request participation in the program by the date
 475 established by the eligible nonprofit scholarship-funding
 476 organization.

477 6. Affirm that the student remains in good standing with
 478 the provider or school if those options are selected by the
 479 parent.

480 7. Apply for admission of his or her child if the private
 481 school option is selected by the parent.

482 8. Annually renew participation in the program.
 483 Notwithstanding any changes to the student's IEP, a student who
 484 was previously eligible for participation in the program shall
 485 remain eligible to apply for renewal ~~as provided in subsection~~
 486 ~~(6)~~. However, in order for a high-risk child to continue to
 487 participate in the program in the school year after he or she
 488 reaches 6 years of age, the child's application for renewal of
 489 program participation must contain documentation that the child
 490 has a disability as defined in paragraph (2)(d) other than high-
 491 risk status.

492 9. Affirm that the parent will not transfer any college
 493 savings funds to another beneficiary.

494 10. Affirm that the parent will not take possession of any

495 funding provided by the state for the Florida Personal Learning
 496 Scholarship Accounts.

497 11. If a parent chooses to enroll the child in a home
 498 education program pursuant to s. 1002.41, affirm that the parent
 499 complies with all home education requirements ~~Maintain a~~
 500 ~~portfolio of records and materials which must be preserved by~~
 501 ~~the parent for 2 years and be made available for inspection by~~
 502 ~~the district school superintendent or the superintendent's~~
 503 ~~designee upon 15 days' written notice. This paragraph does not~~
 504 ~~require the superintendent to inspect the portfolio. The~~
 505 ~~portfolio of records and materials must consist of:~~

506 ~~a. A log of educational instruction and services which is~~
 507 ~~made contemporaneously with delivery of the instruction and~~
 508 ~~services and which designates by title any reading materials~~
 509 ~~used; and~~

510 ~~b. Samples of any writings, worksheets, workbooks, or~~
 511 ~~creative materials used or developed by the student.~~

512 (b) The parent is responsible for procuring the services
 513 necessary to educate the student. When the student receives a
 514 personal learning scholarship account, the district school board
 515 is not obligated to provide the student with a free appropriate
 516 public education. For purposes of s. 1003.57 and the Individuals
 517 with Disabilities in Education Act, a participating student has
 518 only those rights that apply to all other unilaterally
 519 parentally placed students, except that, when requested by the
 520 parent, school district personnel must develop an individual

521 education plan or matrix level of services.

522 (c) The parent is responsible for the payment of all
 523 eligible expenses in excess of the amount of the personal
 524 learning scholarship account in accordance with the terms agreed
 525 to between the parent and the providers.

526

527 A parent who fails to comply with this subsection forfeits the
 528 personal learning scholarship account.

529 (12) ADMINISTRATION OF PERSONAL LEARNING SCHOLARSHIP
 530 ACCOUNTS.—An eligible nonprofit scholarship-funding organization
 531 participating in the Florida Tax Credit Scholarship Program
 532 established under s. 1002.395 may establish personal learning
 533 scholarship accounts for eligible students by:

534 (a) Receiving applications and determining student
 535 eligibility in accordance with the requirements of this section.
 536 The organization shall notify the department of the applicants
 537 for the program by March 1 before the school year in which the
 538 student intends to participate. When an application is received,
 539 the eligible nonprofit scholarship-funding ~~scholarship funding~~
 540 organization must provide the department with information on the
 541 student ~~to enable the department to report the student for~~
 542 ~~funding in accordance with subsection (13).~~

543 (b) Notifying parents of their receipt of a scholarship on
 544 a first-come, first-served basis based upon the funds provided
 545 for this program in the General Appropriations Act. However,
 546 first priority must be given to eligible students who receive a

547 personal learning scholarship during the previous school year
 548 and apply for renewal.

549 (c) Establishing a date by which a parent must confirm
 550 initial or continuing participation in the program and confirm
 551 the establishment or continuance of a personal learning
 552 scholarship account.

553 (d) Establishing a date and process by which students on
 554 the wait list or late-filing applicants may be allowed to
 555 participate in the program during the school year, within the
 556 amount of funds provided for this program in the General
 557 Appropriations Act.

558 (e) Establishing and maintaining separate accounts for
 559 each eligible student. For each account, the organization must
 560 maintain a record of accrued interest that is retained in the
 561 student's account and available only for authorized program
 562 expenditures.

563 (f) Verifying qualifying expenditures pursuant to ~~the~~
 564 ~~requirements of paragraph (9)(b) (8)(b).~~

565 (g) Returning any unused funds to the department when the
 566 student is no longer eligible for a personal learning
 567 scholarship ~~learning~~ account pursuant to paragraph (6)(c).

568 (13) FUNDING AND PAYMENT.—

569 (a)1. The maximum funding amount granted for an eligible
 570 student with a disability, pursuant to subsection (3), shall be
 571 equivalent to the base student allocation in the Florida
 572 Education Finance Program multiplied by the appropriate cost

573 factor for the educational program which would have been
 574 provided for the student in the district school to which he or
 575 she would have been assigned, multiplied by the district cost
 576 differential.

577 2. In addition, an amount equivalent to a share of the
 578 guaranteed allocation for exceptional students in the Florida
 579 Education Finance Program shall be determined and added to the
 580 amount in subparagraph 1. The calculation shall be based on the
 581 methodology and the data used to calculate the guaranteed
 582 allocation for exceptional students for each district in chapter
 583 2000-166, Laws of Florida. Except as provided in subparagraph
 584 3., the calculation shall be based on the student's grade, the
 585 matrix level of services, and the difference between the 2000-
 586 2001 basic program and the appropriate level of services cost
 587 factor, multiplied by the 2000-2001 base student allocation and
 588 the 2000-2001 district cost differential for the sending
 589 district. The calculated amount must also include an amount
 590 equivalent to the per-student share of supplemental academic
 591 instruction funds, instructional materials funds, technology
 592 funds, and other categorical funds as provided in the General
 593 Appropriations Act.

594 3. Except as otherwise provided, the calculation for all
 595 students participating in the program shall be based on the
 596 matrix that assigns the student to support Level III of
 597 services. If a parent requests ~~chooses to request~~ and receives
 598 ~~receive~~ a matrix of services from the school district, when the

599 school district completes the matrix, the amount of the payment
600 shall be adjusted as needed.

601 4.~~(b)~~ The amount of the awarded funds shall be 90 percent
602 of the calculated amount.

603 (b) One hundred percent of the funds appropriated for the
604 program shall be released to the department at the beginning of
605 the first quarter of each fiscal year.

606 ~~(c) Upon an eligible student's graduation from an eligible~~
607 ~~postsecondary educational institution or after any period of 4~~
608 ~~consecutive years after high school graduation in which the~~
609 ~~student is not enrolled in an eligible postsecondary educational~~
610 ~~institution, the student's personal learning scholarship account~~
611 ~~shall be closed, and any remaining funds shall revert to the~~
612 ~~state.~~

613 (c)~~(d)~~ The eligible nonprofit scholarship-funding
614 organization shall develop a system for payment of benefits by
615 electronic funds transfer, including, but not limited to, debit
616 cards, electronic payment cards, or any other means of
617 electronic payment that the department deems to be commercially
618 viable or cost-effective. Commodities or services related to the
619 development of such a system shall be procured by competitive
620 solicitation unless they are purchased from a state term
621 contract pursuant to s. 287.056.

622 (d)~~(e)~~ Moneys received pursuant to this section do not
623 constitute taxable income to the parent of the qualified
624 student.

625 (14) OBLIGATIONS OF THE AUDITOR GENERAL.—

626 (a) The Auditor General shall conduct an annual ~~financial~~
 627 ~~and~~ operational audit of accounts and records of each eligible
 628 nonprofit scholarship-funding organization that participates in
 629 the program. As part of this audit, the Auditor General shall
 630 verify, at a minimum, the total amount of students served and
 631 eligibility of reimbursements made by each eligible nonprofit
 632 scholarship-funding organization ~~and transmit that information~~
 633 ~~to the department.~~ The Auditor General shall provide the
 634 Commissioner of Education with a copy of each annual operational
 635 audit performed pursuant to this paragraph within 10 days after
 636 each audit is finalized.

637 (b) The Auditor General shall notify the department of any
 638 eligible nonprofit scholarship-funding organization that fails
 639 to comply with a request for information.

640 (15) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The
 641 Department of Health, the Agency for Persons with Disabilities,
 642 and the Department of Education shall work with an eligible
 643 nonprofit scholarship-funding organization for easy or automated
 644 access to lists of licensed providers of services specified in
 645 paragraph (5)(c) to ensure efficient administration of the
 646 program.

647 (16) LIABILITY.—The state is not liable for the award or
 648 any use of awarded funds under this section.

649 (17) SCOPE OF AUTHORITY.—This section does not expand the
 650 regulatory authority of this state, its officers, or any school

651 district to impose additional regulation on participating
 652 private schools, independent ~~nonpublic~~ postsecondary educational
 653 institutions, and private providers beyond those reasonably
 654 necessary to enforce requirements expressly set forth in this
 655 section.

656 (18) RULES.—The State Board of Education shall adopt rules
 657 pursuant to ss. 120.536(1) and 120.54 to administer this
 658 section.

659 ~~(19) IMPLEMENTATION SCHEDULE FOR THE 2014-2015 SCHOOL~~
 660 ~~YEAR. Notwithstanding the provisions of this section related to~~
 661 ~~notification and eligibility timelines, an eligible nonprofit~~
 662 ~~scholarship-funding organization may enroll parents on a rolling~~
 663 ~~schedule on a first-come, first-served basis, within the amount~~
 664 ~~of funds provided in the General Appropriations Act.~~

665 Section 2. Paragraphs (j) and (l) of subsection (6) and
 666 paragraphs (a), (b), and (f) of subsection (16) of section
 667 1002.395, Florida Statutes, are amended to read:

668 1002.395 Florida Tax Credit Scholarship Program.—

669 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 670 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 671 organization:

672 (j)1. May use up to 3 percent of eligible contributions
 673 received during the state fiscal year in which such
 674 contributions are collected for administrative expenses if the
 675 organization has operated as an eligible nonprofit scholarship-
 676 funding organization ~~under this section~~ for at least 3 ~~state~~

677 | fiscal years and did not have any ~~negative financial~~ findings of
678 | material weakness or material noncompliance in its most recent
679 | audit under paragraph (m). Such administrative expenses must be
680 | reasonable and necessary for the organization's management and
681 | distribution of eligible contributions under this section. No
682 | funds authorized under this subparagraph shall be used for
683 | lobbying or political activity or expenses related to lobbying
684 | or political activity. Up to one-third of the funds authorized
685 | for administrative expenses under this subparagraph may be used
686 | for expenses related to the recruitment of contributions from
687 | taxpayers. If an eligible nonprofit scholarship-funding
688 | organization charges an application fee for a scholarship, the
689 | application fee must be immediately refunded to the person that
690 | paid the fee if the student is not enrolled in a participating
691 | school within 12 months.

692 | 2. Must expend for annual or partial-year scholarships an
693 | amount equal to or greater than 75 percent of the net eligible
694 | contributions remaining after administrative expenses during the
695 | state fiscal year in which such contributions are collected. No
696 | more than 25 percent of such net eligible contributions may be
697 | carried forward to the following state fiscal year. All amounts
698 | carried forward, for audit purposes, must be specifically
699 | identified for particular students, by student name and the name
700 | of the school to which the student is admitted, subject to the
701 | requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,
702 | and the applicable rules and regulations issued pursuant

703 thereto. Any amounts carried forward shall be expended for
 704 annual or partial-year scholarships in the following state
 705 fiscal year. ~~Net eligible contributions remaining on June 30 of~~
 706 ~~each year that are in excess of the 25 percent that may be~~
 707 ~~carried forward shall be returned to the State Treasury for~~
 708 ~~deposit in the General Revenue Fund.~~

709 3. Must, before granting a scholarship for an academic
 710 year, document each scholarship student's eligibility for that
 711 academic year. An eligible nonprofit A scholarship-funding
 712 organization may not grant multiyear scholarships in one
 713 approval process.

714 (1) With the prior approval of the Department of
 715 Education, may transfer funds to another eligible nonprofit
 716 scholarship-funding organization if additional funds are
 717 required to meet scholarship demand at the receiving eligible
 718 nonprofit scholarship-funding organization. A transfer is
 719 limited to the greater of \$500,000 or 20 percent of the total
 720 contributions received by the eligible nonprofit scholarship-
 721 funding organization making the transfer. All transferred funds
 722 must be deposited by the receiving eligible nonprofit
 723 scholarship-funding organization into its scholarship accounts.
 724 All transferred amounts received by any eligible nonprofit
 725 scholarship-funding organization must be separately disclosed in
 726 the annual financial ~~and compliance~~ audit required in this
 727 section.

728

729 Information and documentation provided to the Department of
 730 Education and the Auditor General relating to the identity of a
 731 taxpayer that provides an eligible contribution under this
 732 section shall remain confidential at all times in accordance
 733 with s. 213.053.

734 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;
 735 APPLICATION.—In order to participate in the scholarship program
 736 created under this section, a charitable organization that seeks
 737 to be a nonprofit scholarship-funding organization must submit
 738 an application for initial approval or renewal to the Office of
 739 Independent Education and Parental Choice no later than
 740 September 1 of each year before the school year for which the
 741 organization intends to offer scholarships.

742 (a) An application for initial approval must include:

743 1. A copy of the organization's incorporation documents
 744 and registration with the Division of Corporations of the
 745 Department of State.

746 2. A copy of the organization's Internal Revenue Service
 747 determination letter as a s. 501(c)(3) not-for-profit
 748 organization.

749 3. A description of the organization's financial plan that
 750 demonstrates sufficient funds to operate throughout the school
 751 year.

752 4. A description of the geographic region that the
 753 organization intends to serve and an analysis of the demand and
 754 unmet need for eligible students in that area.

- 755 5. The organization's organizational chart.
- 756 6. A description of the criteria and methodology that the
- 757 organization will use to evaluate scholarship eligibility.
- 758 7. A description of the application process, including
- 759 deadlines and any associated fees.
- 760 8. A description of the deadlines for attendance
- 761 verification and scholarship payments.
- 762 9. A copy of the organization's policies on conflict of
- 763 interest and whistleblowers.
- 764 10. A copy of a surety bond or letter of credit in an
- 765 amount equal to 25 percent of the scholarship funds anticipated
- 766 for each school year or \$100,000, whichever is greater, to
- 767 secure the faithful performance of the obligations of the
- 768 eligible nonprofit scholarship-funding organization in
- 769 accordance with this section. The surety bond or letter of
- 770 credit must specify that any claim against the bond or letter of
- 771 credit may only be made by an eligible nonprofit scholarship-
- 772 funding organization to provide scholarships to and on behalf of
- 773 students who transferred from the ineligible nonprofit
- 774 scholarship-funding organization.
- 775 (b) In addition to the information required by
- 776 subparagraphs (a)1.-9., an application for renewal must include:
- 777 1. A surety bond or letter of credit equal to the amount
- 778 of undisbursed donations held by the organization based on the
- 779 annual report submitted pursuant to paragraph (6)(m). The amount
- 780 of the surety bond or letter of credit must be at least

781 | \$100,000, but not more than \$25 million, to secure the faithful
782 | performance of the obligations of the nonprofit scholarship-
783 | funding organization in accordance with this section. The surety
784 | bond or letter of credit must specify that any claim against the
785 | bond or letter of credit may only be made by an eligible
786 | nonprofit scholarship-funding organization to provide
787 | scholarships to and on behalf of students who transferred from
788 | the ineligible nonprofit scholarship-funding organization.

789 | 2. The organization's completed Internal Revenue Service
790 | Form 990 submitted no later than November 30 of the year before
791 | the school year that the organization intends to offer the
792 | scholarships, notwithstanding the September 1 application
793 | deadline.

794 | 3. A copy of the most recently available financial
795 | ~~statutorily required~~ audit conducted pursuant to paragraph
796 | (6) (m) and submitted to the Department of Education and Auditor
797 | General.

798 | 4. An annual report that includes:

799 | a. The number of students who completed applications, by
800 | county and by grade.

801 | b. The number of students who were approved for
802 | scholarships, by county and by grade.

803 | c. The number of students who received funding for
804 | scholarships within each funding category, by county and by
805 | grade.

806 | d. The amount of funds received, the amount of funds

807 distributed in scholarships, and an accounting of remaining
 808 funds and the obligation of those funds.

809 e. A detailed accounting of how the organization spent the
 810 administrative funds allowable under paragraph (6)(j).

811 (f) All remaining funds held by an eligible ~~a~~ nonprofit
 812 scholarship-funding organization that is disapproved for
 813 participation shall be transferred ~~must revert to the Department~~
 814 ~~of Revenue for redistribution~~ to other eligible nonprofit
 815 scholarship-funding organizations to provide scholarships for
 816 eligible students. All transferred funds must be deposited by
 817 each eligible nonprofit scholarship-funding organization
 818 receiving such funds into its scholarship account. All
 819 transferred amounts received by any eligible nonprofit
 820 scholarship-funding organization must be separately disclosed in
 821 the annual financial audit required under subsection (6).

822 Section 3. Subsection (11) is added to section 1009.98,
 823 Florida Statutes, to read:

824 1009.98 Stanley G. Tate Florida Prepaid College Program.—

825 (11) FLORIDA PERSONAL LEARNING SCHOLARSHIP ACCOUNTS
 826 PROGRAM.—Notwithstanding any other provision of this section,
 827 the Florida Prepaid College Board shall develop procedures,
 828 contracts, and any other required documentation necessary to
 829 allow contributions made pursuant to s. 1002.385 to be used in
 830 conjunction with other funds used by the parent in the purchase
 831 of a prepaid college plan. Such contributions and interest
 832 earned from such contributions:

833 (a) Must be tracked and accounted for separately from
834 other funds deposited for a prepaid college plan.

835 (b) Must revert to the state pursuant to s.
836 1002.385(6)(c).

837 (c) May be used only after private payments have been used
838 for prepaid college plan expenditures.

839 Section 4. This act shall take effect July 1, 2015.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Appropriations
 2 Subcommittee

3 Representative Bileca offered the following:

4
 5 **Amendment (with title amendment)**

6 Between lines 621 and 622, insert:

7 (d) The eligible nonprofit funding organization may use up
 8 to 4 percent of the total amount of payments it received during
 9 the state fiscal year for administrative expenses if the
 10 eligible nonprofit scholarship-funding organization has operated
 11 as an nonprofit scholarship-funding organization for at least 3
 12 fiscal years and did not have any findings of material weakness
 13 or material noncompliance in its most recent audit in accordance
 14 with s. 1002.395(6) (m). Such administrative expenses must be
 15 reasonable and necessary for the organization's management and
 16 distribution of scholarships under this section. No funds

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17 authorized under this subparagraph shall be used for lobbying or
18 political activity. If an eligible nonprofit scholarship-funding
19 organization charges an application fee for a scholarship, the
20 application fee must be immediately refunded to the person that
21 paid the fee if the student is determined ineligible for the
22 program.

23

24

25

T I T L E A M E N D M E N T

26

Remove line 38 and insert:

27

fiscal year; authorizing administrative expenses for nonprofit

28

scholarship-funding organizations; deleting a requirement for a

29

financial