

1 A bill to be entitled

2 An act relating to the Florida Personal Learning
3 Account Program; creating s. 1002.411, F.S.;
4 establishing the Florida Personal Learning Account
5 Program; defining terms; providing student eligibility
6 criteria for receipt of a Florida Personal Learning
7 Account; providing parent and student responsibilities
8 for program participation; specifying allowable
9 expenditures of account funds; requiring an annual
10 evaluation of each participating student's educational
11 progress and school district review of the evaluation;
12 specifying that parents are responsible for procuring
13 educational services for a participating student;
14 specifying that school districts are not obligated to
15 provide a free appropriate public education for
16 participating students; prohibiting participating
17 students from having multiple accounts or
18 participating in school choice scholarship programs;
19 authorizing a nonprofit scholarship-funding
20 organization to establish accounts for eligible
21 students; specifying duties of nonprofit scholarship-
22 funding organizations for administration and funding
23 of accounts, annual audits, and quarterly reporting;
24 specifying Department of Education duties regarding
25 approved service providers, oversight of nonprofit
26 scholarship-funding organizations, investigation and

27 adjudication of complaints, and reporting by nonprofit
28 scholarship-funding organizations; specifying school
29 district duties regarding initial evaluations and
30 individual educational plan development and review;
31 providing a calculation for funding accounts;
32 requiring school districts to report participating
33 students to the department for funding; requiring
34 quarterly transfer of funds by the department to
35 nonprofit scholarship-funding organizations; providing
36 for the carryforward of funds remaining in an account
37 at the end of a fiscal year; specifying the conditions
38 under which an account is terminated and providing for
39 the reversion of funds; exempting the state from
40 liability regarding the award or use of accounts;
41 requiring rulemaking; amending s. 1003.01, F.S.;
42 revising the definition of the term "regular school
43 attendance" to add participation in the Florida
44 Personal Learning Account Program; amending s. 11.45,
45 F.S.; authorizing the Auditor General to conduct
46 audits of the accounts and records of nonprofit
47 scholarship-funding organizations participating in the
48 Florida Personal Learning Account Program; providing
49 an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:
52

53 Section 1. Section 1002.411, Florida Statutes, is created
54 to read:

55 1002.411 Florida Personal Learning Account Program.—

56 (1) FLORIDA PERSONAL LEARNING ACCOUNT PROGRAM.—The Florida
57 Personal Learning Account Program is established to enable
58 parents of students with disabilities to customize their child's
59 education using a wide range of instructional services.

60 (2) DEFINITIONS.—

61 (a) "Approved provider" means a provider of specialized
62 instructional services approved by the department, individuals
63 providing services through the Agency for Persons with
64 Disabilities, and providers approved pursuant to s. 1002.66.

65 (b) "Certified teacher" means a teacher who holds a valid
66 Florida professional certificate issued pursuant to s. 1012.56
67 to teach academic subjects at the elementary or secondary level.

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

71 (d) "Eligible student" or "participating student" means a
72 student with a disability who is eligible for, or is
73 participating in, the Florida Personal Learning Account Program,
74 as applicable.

75 (e) "Student with a disability" means a student in
76 kindergarten through grade 5 who has autism, cerebral palsy,
77 Down syndrome, an intellectual disability, Prader-Willi
78 syndrome, or spina bifida, as defined in s. 393.063. For a

79 student in kindergarten, the term also means a high-risk child
80 as defined in s. 393.063(20) (a).

81 (3) FLORIDA PERSONAL LEARNING ACCOUNT ELIGIBILITY.—The
82 parent of a student who resides in this state may request and
83 receive a Florida Personal Learning Account if:

84 (a) The student is eligible to enter kindergarten or grade
85 1 through grade 5 or received a Florida Personal Learning
86 Account established pursuant to this section in the previous
87 school year;

88 (b) The student has been identified as a student with a
89 disability by the school district in which he or she resides and
90 the district has completed an individual educational plan
91 written in accordance with rules of the State Board of
92 Education; and

93 (c) The student is assigned to matrix Support Level IV or
94 Support Level V pursuant to s. 1011.62(1).

95
96 For a student who is a first-time applicant, an administrative
97 or a judicial proceeding may not be pending regarding the
98 contents of the student's individual educational plan. For a
99 student who is applying to renew a current Florida Personal
100 Learning Account, the existence of a pending administrative or
101 judicial proceeding about a subsequent individual educational
102 plan does not affect continued eligibility for an account.

103 (4) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
104 PARTICIPATION.—

105 (a) To receive a Florida Personal Learning Account, the
106 parent of an eligible student must:

107 1. No later than 60 days before one of the payment
108 transfer dates specified in paragraph (8)(d), submit an
109 application to an eligible nonprofit scholarship-funding
110 organization in order to receive that payment and, if the
111 student does not already have an active individual educational
112 plan, request an evaluation from the school district in which
113 the student resides; and

114 2. Obtain an individual educational plan in accordance
115 with subsection (7) no later than 30 days before one of the
116 payment transfer dates specified in paragraph (8)(d) in order to
117 receive that payment.

118 (b) To maintain eligibility in the Florida Personal
119 Learning Account Program, the parent of an eligible student
120 must:

121 1. Register the student's participation in the program
122 with the school district in which the student resides and
123 release the school district from all obligations to educate the
124 student.

125 2. Participate in the initial development of the
126 individual educational plan and the annual review of the plan
127 under subsection (7).

128 3. Submit eligible expenses to the nonprofit scholarship-
129 funding organization designated by the parent for reimbursement
130 of qualifying expenditures. Reimbursement requests must be

131 supported by documentation of services rendered, such as
132 receipts or invoices, and accompanied by an affidavit signed by
133 the parent certifying his or her compliance with the
134 requirements of this section. Eligible expenses include:
135 a. Specialized instructional services by approved
136 providers that are consistent with the student's individual
137 educational plan.
138 b. Tuition and fees for instructional services from an
139 eligible private school under s. 1002.39(8) or s. 1002.395(8) to
140 implement the student's individual educational plan.
141 c. Private tutoring pursuant to s. 1002.43.
142 d. Tuition and fees for enrollment in a virtual education
143 program provided by an approved virtual education provider
144 pursuant to s. 1002.37 or s. 1002.45 or in an approved online
145 course offered pursuant to s. 1003.499 or s. 1004.0961.
146 e. Curriculum.
147 f. Costs incurred to comply with the annual educational
148 evaluation required in this paragraph.
149 g. The fee authorized by paragraph (5)(a).
150 h. Services such as applied behavior analysis as defined
151 in s. 627.6686, speech-language pathology as defined in s.
152 468.1125, occupational therapy as defined in s. 468.203, and
153 physical therapy as defined in s. 486.021.
154 i. Medical services prescribed by a physician licensed
155 under chapter 458 or chapter 459 if funds remain in the Florida
156 Personal Learning Account after the purchase of educational

157 services necessary to meet the student's educational needs and
158 if such medical services are related to the student's
159 disability.

160 4. Maintain a portfolio of records and materials that
161 consists of:

162 a. A log of educational instruction and services that is
163 made contemporaneously with delivery of the instruction and
164 services and that designates by title any reading materials
165 used.

166 b. Samples of writings, worksheets, workbooks, or creative
167 materials used or developed by the student.

168
169 The portfolio must be preserved by the parent for 2 years and
170 made available for inspection by the district school
171 superintendent, or his or her designee, upon 15 days' written
172 notice. This subparagraph does not require the district school
173 superintendent to inspect the portfolio.

174 5. Provide for an annual educational evaluation which
175 documents the student's demonstration of educational progress at
176 a level commensurate with his or her ability, which may include:

177 a. Evaluation of the student's work portfolio by a
178 certified teacher selected by the parent;

179 b. Any nationally normed student achievement test
180 administered by a certified teacher;

181 c. A statewide, standardized assessment administered by a
182 certified teacher, at a location and under testing conditions

183 approved by the school district;

184 d. Evaluation by an individual holding a valid, active
185 license pursuant to the provisions of s. 490.003(7) or (8); or

186 e. Any other valid measurement tool mutually agreed upon
187 by the district school superintendent of the district in which
188 the student resides and the student's parent.

189 (c) The district school superintendent must review and
190 accept the results of the annual educational evaluation of a
191 participating student. If the student does not demonstrate
192 educational progress at a level commensurate with his or her
193 ability, the district school superintendent must notify the
194 parent, in writing, that such progress has not been achieved. If
195 the student remains eligible for a Florida Personal Learning
196 Account, the parent has 1 year after the date of receipt of the
197 written notification to provide remedial instruction to the
198 student. At the end of the 1-year probationary period, the
199 student must be reevaluated pursuant to subparagraph (b)5.
200 Continued participation in the Florida Personal Learning Account
201 Program is contingent upon the student demonstrating educational
202 progress commensurate with her or his ability at the end of the
203 probationary period.

204 (d) The parent is responsible for procuring the services
205 necessary to educate the student. Once the student receives a
206 Florida Personal Learning Account, the district school board is
207 not obligated to provide the student with a free appropriate
208 public education. For purposes of s. 1003.57 and the Individuals

209 with Disabilities Education Act, a participating student has
210 only those rights that apply to all other unilaterally
211 parentally placed students, except that, when requested by the
212 parent, school district personnel must develop an individual
213 educational plan in accordance with subsection (7).

214 (e) The parent is responsible for the payment of all
215 eligible expenses in excess of the amount in the Florida
216 Personal Learning Account in accordance with the terms agreed to
217 between the parent and the providers and may not receive any
218 refund or rebate of any expenditures made in accordance with
219 subparagraph (b)3.

220 (f) A student is eligible for only one Florida Personal
221 Learning Account and may not receive a scholarship under part
222 III of this chapter.

223 (5) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
224 ORGANIZATIONS.—A nonprofit scholarship-funding organization
225 participating in the Florida Tax Credit Scholarship Program
226 under s. 1002.395 may establish Florida Personal Learning
227 Accounts for eligible students. An eligible nonprofit
228 scholarship-funding organization must:

229 (a) Receive applications and determine student eligibility
230 in accordance with the requirements of this section. Once an
231 application is approved, the nonprofit scholarship-funding
232 organization must provide the department with information on the
233 student to enable the school district to report the student for
234 funding in accordance with subsection (8). A nonprofit

235 scholarship-funding organization may charge the parent of an
236 eligible student up to a \$25 fee to establish the Florida
237 Personal Learning Account but may not receive any other fees.

238 (b) Establish and maintain separate accounts for each
239 eligible student.

240 (c) Verify qualifying expenditures before receipt of the
241 quarterly distribution by the department.

242 (d) Return any unused funds to the department when a
243 student is no longer eligible for a Florida Personal Learning
244 Account.

245 (e) Provide to the Auditor General and the department an
246 annual financial and compliance audit of its accounts and
247 records conducted by an independent certified public accountant
248 in accordance with rules adopted by the Auditor General. The
249 audit must be conducted in compliance with generally accepted
250 auditing standards and must include a report on financial
251 statements presented in accordance with generally accepted
252 accounting principles set forth by the American Institute of
253 Certified Public Accountants for not-for-profit organizations
254 and a determination of compliance with requirements in this
255 section. Audits must be provided to the Auditor General and the
256 Department of Education within 180 days after completion of the
257 nonprofit scholarship-funding organization's fiscal year. If a
258 nonprofit scholarship-funding organization does not submit an
259 annual audit, the Auditor General shall conduct the audit
260 required by this paragraph.

261 (f) Prepare and submit quarterly reports to the department
 262 pursuant to paragraph (6) (f). In addition, a nonprofit
 263 scholarship-funding organization must submit in a timely manner
 264 any information requested by the department relating to the
 265 Florida Personal Learning Account Program.

266 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 267 must:

268 (a) Maintain a list of approved providers.

269 (b) Require each eligible nonprofit scholarship-funding
 270 organization to verify eligible expenditures as provided in
 271 subparagraph (4) (b) 3. before reimbursement.

272 (c) Investigate any written complaint of a violation of
 273 this section in accordance with the process established by s.
 274 1002.395(9) (f).

275 (d) Notify an eligible nonprofit scholarship-funding
 276 organization of any of the organization's identified students
 277 who are receiving educational scholarships pursuant to part III
 278 of this chapter.

279 (e) Notify an eligible nonprofit scholarship-funding
 280 organization of any of the organization's identified students
 281 who have established a Florida Personal Learning Account with
 282 another eligible nonprofit scholarship-funding organization or
 283 have been reported for funding by a school district or the
 284 Florida Virtual School.

285 (f) Require quarterly reports by an eligible nonprofit
 286 scholarship-funding organization regarding the number of

287 students participating in the program, the providers of services
 288 to students, and other information deemed necessary by the
 289 department.

290 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

291 (a) Upon the request of a parent submitted at least 60
 292 days before a payment transfer date specified in paragraph
 293 (8) (d), the school district in which the student resides shall
 294 conduct an initial evaluation of a student in accordance with s.
 295 1003.57. If a determination is made that the student has a
 296 disability and needs special education and related services, an
 297 individual educational plan must be developed.

298 (b) Evaluations and individual educational plans must be
 299 completed within the timeframes set forth in rules of the State
 300 Board of Education. If a student has been identified as a
 301 student with a disability under the Individuals with
 302 Disabilities Education Act pursuant to a current evaluation team
 303 report but the student does not have an individual educational
 304 plan because the student is not currently enrolled in a public
 305 school, the school district shall prepare an individual
 306 educational plan for the student.

307 (c) Upon completion of a student's individual educational
 308 plan, the school district shall provide the parent with an
 309 estimate of the approximate amount of funds that the student may
 310 receive in a Florida Personal Learning Account.

311 (d) The school district in which an eligible student
 312 resides must:

313 1. Review the annual educational evaluation in accordance
314 with paragraph (4) (c).

315 2. Annually review the individual educational plan of each
316 student with a Florida Personal Learning Account in consultation
317 with the personnel of providers of the services selected by the
318 parent for the student under subparagraph (4) (b)3.

319 (e) The school district developing the individual
320 educational plan is not obligated to provide a participating
321 student with a free appropriate public education. However, if,
322 at any time, a parent of a participating student decides to
323 enroll the student in the school district, the school district
324 must provide the student with a free appropriate public
325 education.

326 (8) FLORIDA PERSONAL LEARNING ACCOUNT FUNDING AND
327 PAYMENT.—

328 (a) The maximum amount granted for an eligible student
329 with disabilities shall be calculated in accordance with s.
330 1002.39(10) (a).

331 (b) The school district shall report to the department for
332 funding all students who are receiving a Florida Personal
333 Learning Account. These students must be reported separately
334 from other students reported for purposes of the Florida
335 Education Finance Program.

336 (c) Following notification on July 1, September 1,
337 December 1, or February 1 of the number of program participants,
338 the department shall transfer, from general revenue funds only,

339 the amount calculated under paragraph (a) from the school
340 district's total funding entitlement under the Florida Education
341 Finance Program and from authorized categorical accounts to a
342 separate account for the Florida Personal Learning Account
343 Program for quarterly disbursement to the nonprofit scholarship-
344 funding organization for participating students.

345 (d) After the department verifies the establishment of a
346 Florida Personal Learning Account for a participating student by
347 the nonprofit scholarship-funding organization, the department
348 shall make payments to the nonprofit scholarship-funding
349 organization selected by the parent in four equal amounts no
350 later than September 1, November 1, February 1, and April 1 of
351 each academic year in which the account is in force.

352 (e) Any funds remaining in a Florida Personal Learning
353 Account for an eligible student are carried forward to the next
354 fiscal year until termination of the account. A Florida Personal
355 Learning Account shall be terminated if the student enrolls in
356 and is reported for funding in any public educational program
357 under s. 1000.04(1), (3), or (4); is determined ineligible for a
358 Florida Personal Learning Account under this section; graduates
359 from high school; or reaches 22 years of age, whichever occurs
360 first. Once an account is terminated, all remaining funds revert
361 to the state.

362 (9) LIABILITY.—No liability shall arise on the part of the
363 state based on the award or use of a Florida Personal Learning
364 Account.

365 (10) RULES.—The State Board of Education shall adopt rules
 366 to implement this section, including rules necessary to
 367 coordinate the respective responsibilities of the department,
 368 school districts, and nonprofit scholarship-funding
 369 organizations regarding the funding and administration of
 370 Florida Personal Learning Accounts; criteria, timelines, and a
 371 reporting format for quarterly reports by nonprofit scholarship-
 372 funding organizations; and a standard application form to be
 373 used by parents and nonprofit scholarship-funding organizations.

374 Section 2. Subsection (13) of section 1003.01, Florida
 375 Statutes, is amended to read:

376 1003.01 Definitions.—As used in this chapter, the term:

377 (13) "Regular school attendance" means the actual
 378 attendance of a student during the school day as defined by law
 379 and rules of the State Board of Education. Regular attendance
 380 within the intent of s. 1003.21 may be achieved by ~~attendance~~
 381 ~~in~~:

382 (a) Attendance in a public school supported by public
 383 funds;

384 (b) Attendance in a parochial, religious, or
 385 denominational school;

386 (c) Attendance in a private school supported in whole or
 387 in part by tuition charges or by endowments or gifts;

388 (d) Participation in a home education program under s.
 389 1002.41; ~~that meets the requirements of chapter 1002; or~~

390 (e) Attendance in a private tutoring program under s.

391 1002.43; or
 392 (f) Participation in the Florida Personal Learning Account
 393 Program under s. 1002.411 ~~that meets the requirements of chapter~~
 394 ~~1002.~~

395 Section 3. Paragraph (y) is added to subsection (3) of
 396 section 11.45, Florida Statutes, to read:

397 11.45 Definitions; duties; authorities; reports; rules.—

398 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 399 Auditor General may, pursuant to his or her own authority, or at
 400 the direction of the Legislative Auditing Committee, conduct
 401 audits or other engagements as determined appropriate by the
 402 Auditor General of:

403 (y) The accounts and records of a nonprofit scholarship-
 404 funding organization participating in the Florida Personal
 405 Learning Account Program established by s. 1002.411.

406 Section 4. This act shall take effect July 1, 2014.