

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 602

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senators Gaetz and Galvano

SUBJECT: Students With Disabilities

DATE: March 27, 2015 **REVISED:** _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

Specifically, the bill:

- Creates an education fiscal intermediary (EFI) to act as the PLSA administrative agent and expands the types of entities that may compete to become an EFI, to include school district direct support organizations, state universities, Independent Colleges and Universities of Florida (ICUF) institutions, and certain charitable organizations.
- Requires the DOE to issue a competitive solicitation for one or more EFIs, and to verify the EFI’s compliance with law and contract.
- Expands student eligibility to include all students on the autism spectrum, per the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), students with muscular dystrophy, and to students who are, or will be, 3 or 4 years old on or before September 1 and meet all other eligibility requirements. Establishes eligibility dates for existing students to renew and new students to apply for the PLSA program.
- Requires that authorized expenditures be for educational purposes.

- Authorizes expenditures associated with part-time private tutoring from persons meeting specified requirements (e.g., certified teacher and special skills).
- Requires that interest accrued remain in a PLSA account for the parent to use for authorized purposes.
- Requires a licensed physician to approve specialized services before being provided by an approved provider.
- Allows parents the ability to receive the scholarship funds before the beginning of the school year.
- Requires an EFI to notify program participants of their annual ability to request new or revised matrix of services.
- Authorizes the Commissioner of Education to determine the length of suspensions or terminations, and determine conditions for reinstating program eligibility.
- Adds an option for parents to use PLSA funds on providers from outside the State of Florida who meet similar regulation or approval requirements to those applicable to in-state providers for specialized services.
- Expands the authorized uses of program funds to include fees for specific specialized programs, fees for an annual evaluation of educational progress, training and maintenance agreements for digital devices, transition services provided by life coaches, and contributions to a Florida College Savings Account.
- Clarifies that kindergarten students approved via “high-risk” status must re-qualify under one of the other disability categories when he/she reaches age 6 in order to renew program participation.
- Clarifies PLSA funds may be used toward enrollment at ICUF institutions.
- Requires the Florida Prepaid College Board (Prepaid Board) to allow program funds to be used along with other funds to purchase a prepaid college plan, be separately tracked and accounted for, and used only after private prepaid funds in the account have been exhausted.

The bill increases the number of students potentially eligible for a scholarship by including all students on the autism spectrum. An estimated 860 additional autism spectrum students could participate in the program under the expanded definition, which would cost an additional \$8.6 million. An estimated 480 three and four year-olds could be eligible to participate in the program at an additional cost of \$4.8 million. The estimated fiscal impact for students with muscular dystrophy is minimal. Since scholarships awarded under the program are on a first-come, first-served basis, the number of students receiving a scholarship is limited by the funds appropriated in the General Appropriations Act. The Senate’s proposed General Appropriations Bill for Fiscal Year 2015-2016, SB 2500, appropriates \$50 million for the PLSA program.

The bill takes effect upon becoming a law.

II. Present Situation:

The Florida Personal Learning Scholarship Accounts Program (PLSA or program) was created during the 2014 Legislative session. The PLSA program provides the option for a parent to better

meet the individual needs of his or her eligible child.¹ A parent who applies for program participation is exercising his or her parental option to determine the appropriate placement or services that best meet the needs of his or her child.²

PLSA Parental Choice Options

The PLSA program provides kindergarten through grade 12 students who are a resident of this state and have a disability³ with access to scholarship funds for authorized instructional materials, curriculum, specialized services by approved providers, enrollment and tuition, assessment fees, Florida Prepaid College Program contributions, and contracted services by a public school or school district.⁴

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

Parent and Student Responsibilities

Student Eligibility

A parent may establish and maintain a PLSA account if his or her child is a Florida resident, eligible to enroll in kindergarten through grade 12 in a Florida public school, has a disability, and is the subject of an Individual Education Plan (IEP) or has received a diagnosis of a disability from a licensed physician or psychologist.⁵

Disability means, for a student in kindergarten to grade 12, autism, as defined in s. 393.063(3), F.S.; cerebral palsy, as defined in s. 393.063(4), F.S.; Down syndrome, as defined in s. 393.063(13), F.S.; an intellectual disability, as defined in s. 393.063(21), F.S.; Prader-Willi syndrome, as defined in s. 393.063(25), F.S.; or Spina bifida, as defined in s. 393.063(36), F.S.; and for a student in kindergarten, being a high-risk child, as defined in s. 393.063(20)(a), F.S.;⁶ and Williams syndrome.⁷

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

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

³ Section 1002.385(3), F.S.

⁴ Section 1002.385(5), F.S.

⁵ Section 1002.385(3)(a), F.S.

⁶ Section 393.063 (20), F.S., defines a “High-risk child” as a child from 3 to 5 years of age with one or more of the following characteristics: (a) A developmental delay in cognition, language, or physical development; (b) A child surviving a catastrophic infectious or traumatic illness known to be associated with developmental delay, when funds are specifically appropriated. (c) A child with a parent or guardian with developmental disabilities who requires assistance in meeting the child’s developmental needs. (d) A child who has a physical or genetic anomaly associated with developmental disability.

⁷ Section 1002.385(2)(d), F.S.

Autism, as currently defined for program eligibility, means “a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavioral disorders with age and onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.”⁸ Thus, this definition of autism requires that a student exhibit severe and substantial deficits in certain areas.⁹

A student is not eligible for the PLSA program:

- While enrolled in a public school¹⁰ or a school providing services to youth in the Department of Juvenile Justice program;¹¹
- While receiving a scholarship in accordance with the Florida Tax Credit Scholarship Program or McKay Scholarship, or any other educational scholarship pursuant to chapter 1002;¹²
- If the student or student’s parent has accepted any payment, refund, or rebate from a provider of any services received while participating in the program;¹³ or
- If the student’s participation in the program has been denied or revoked by the Commissioner of Education; or the student’s parent has forfeited participation in the program by failing to comply with the program’s requirements.¹⁴

Scholarship Amount and Allowable Expenditures

The maximum scholarship amount is determined by several factors and calculations.¹⁵ However, the calculation for all students participating in the program is based on the matrix that assigns the student to support Level III of services.¹⁶ The scholarship funds are not released to SFOs¹⁷ until after the Department of Education (DOE or Department) verifies that the student is not attending

⁸ Section 393.063(3), F.S.

⁹ Email, Agency for Persons with Disabilities (Dec. 15, 2014).

¹⁰ Being enrolled in a public school includes, but is not limited to, the Florida School for the Deaf and Blind; the Florida Virtual School; the College-Preparatory Boarding Academy; a developmental research school authorized under s. 1002.33, s. 1002.331, or s. 1002.332; or a virtual education program authorized under s. 1002.45. Section 1002.385(4)(a)1, F.S.

¹¹ Section 1002.385(4)(a)2., F.S.

¹² Sections 1002.385(4)(a)3.-4., F.S. The requirements for the Florida Tax Credit Scholarship Program and John M. McKay Scholarships for Students With Disabilities Program can be found in ss. 1002.39, 1002.395, 1002.42, and 1002.421, F.S.

¹³ Section 1002.385(4)(b)1., F.S.

¹⁴ Sections 1002.385(4)(b)2.-3., F.S.

¹⁵ Section. 1002.385(13), F.S.

¹⁶ Sections 1002.385(11) and (13)(a)3., F.S. The average scholarship amount for the 2014-2015 school year is approximately \$10,000 per student. See, Florida Department of Education, *Personal Learning Scholarship Account Program FAQs*, <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/plsa/plsa-faqs.shtml#7166> (last visited February 6, 2015).

¹⁷ An eligible nonprofit scholarship-funding organization has the same meaning as in s. 1002.395, which means a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is charitable organization that is exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code, is a Florida entity formed under chapters 607, 608 or 617 and whose principal office is located in the state, and complies with s. 1002.395(6) and (16), F.S. (respectively, obligations of SFOs and SFO applications). See, sections 1002.385(2)(e), and 1002.395(2)(f), F.S.

public schools based upon the October student count.¹⁸ The amount of payment can be adjusted upon request of the parent every three years to reevaluate the matrix.¹⁹

Funds from a PLSA account may be used for:²⁰

- Instructional materials;²¹
- Curriculum;²²
- Specialized services by approved providers selected by the parent;²³
- Enrollment, tuition or fees in various authorized educational institutions;²⁴
- Fees for assessments and industry certification examinations;²⁵
- Contributions to the Florida Prepaid College Program account for the benefit of the eligible student;²⁶ and
- Contracted services provided by a public school or school district, including classes and extracurricular programs for the services specified in the IEP or additional services.²⁷

The ability to receive program payments continues until a student fails to comply with the program requirements, has funds revoked by the Commissioner of Education, return to or enrolls in a public school, graduates from high school, or reaches 22 years of age, whichever occurs first.²⁸

However, a student may continue to expend the balance remaining in a PLSA account until the eligible student's graduation from an eligible postsecondary educational institution, or after a period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution.²⁹

¹⁸ Section 1002.385(9)(e), F.S.

¹⁹ Sections 1002.385(7)(c), (11) and (13)(a), F.S.

²⁰ Section 1002.385(5), F.S.

²¹ Instructional materials also includes digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content. Section 1002.385(5)(a), F.S.

²² Curriculum means a complete course of study for a particular content area or grade level, including any required supplemental materials. Section 1002.385(2)(b), F.S.

²³ See s. 468.1125, F.S. Services provided may include, but not limited to applied behavior analysis services and services provided by speech-language, pathologists, occupational therapists, physical therapists, and listening and spoken language specialists. Section 1002.385(5)(c), F.S. The Department of Health, the Agency for Persons with Disabilities, and DOE are required to work with an SFO for easy or automated access to lists of licensed providers of services to ensure efficient administration of the program. Section 1002.385(15), F.S.

²⁴ The various schools or programs include an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual program offered by a DOE-approved private online provider, the Florida Virtual School, or an approved online course. See ss. 1002.43, 1002.45(2)(a), 1003.499, and 1004.0961, F.S.

²⁵ Authorized assessments are nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments. Section 1002.385(5)(e), F.S.

²⁶ See s. 1009.98, F.S., Stanley G. Tate Florida Prepaid College Program.

²⁷ A student who receives services under a contract is not considered to be enrolled in a public school for eligibility purposes. Section 1002.385(5)(g), F.S.

²⁸ Section 1002.385(6), F.S.

²⁹ Section 1002.385(13)(c), F.S. Afterward, the PLSA account will be closed and any remaining funds will revert to the state. Id.

Parent Obligations

Parents of students receiving a scholarship are responsible for signing an agreement with the SFO, procuring the services necessary to educate the student, and paying eligible expenses in excess of the amount of the PLSA account.³⁰

A specialized service provider, eligible private school, eligible postsecondary educational institution, private tutoring program provider, online or virtual program provider, public school, school district, or other entity receiving payments may not share, refund, or rebate any moneys from the PLSA account to the parent or participating student.³¹

A parent must annually submit a notarized, sworn compliance statement to the SFO to:³²

- Affirm that the student meets regular school student attendance requirements;³³
- Affirm PLSA funds only have been used for authorized purposes;
- Notify the school district that the student is participating in the program, if the parent chooses to enroll in a home education program;
- Affirm that the student takes all appropriate standardized assessments;
- Request participation in the program by the date established by the SFO;
- Affirm that the student remains in good standing with the provider or school if those options are selected by the parent;
- Apply for admission of his or her child to a private school, if this option is selected by the parent;
- Apply to renew participation in the program;
- Affirm that the parent will not transfer any college savings funds to another beneficiary;
- Affirm that the parent will not take possession of any funding contributed by the state; and
- Affirm that the parent will maintain a portfolio of records for two years to document student learning and requiring it to be available for inspection upon 15 days written notice from the district school superintendent.

A parent who fails to comply with these requirements forfeits the PLSA account.³⁴

PLSA Program Implementation Responsibilities***Scholarship Funding Organizations***

An eligible scholarship funding organization (SFO) is authorized to establish PLSA accounts for eligible students.³⁵

SFOs receive applications, confirm initial or continuing participation, and determine student eligibility; award scholarships on a first-come, first-serve basis; provide a process for students on

³⁰ Section 1002.385(11), F.S.

³¹ Section 1002.385(5), F.S.

³² Section 1002.385(11)(a), F.S.

³³ These requirements are a parochial, religious, or denominational school; a private school supported in whole or in part by tuition charges or by endowments or gifts; a home education program that meets the requirements of chapter 1002, F.S. *See* ss. 1002.385(11)(a)1., 1003.01(13), 1003.21 and 1003.24, F.S.

³⁴ Section 1002.385(11), F.S.

³⁵ Section 1002.385(12), F.S.

the wait list or late-filing applicants to participate in the program; establish PLSA accounts for each eligible student; and verify expenditures.³⁶ SFOs must return unused funds to the state when the student is no longer eligible to participate in the program.³⁷

SFOs must notify DOE of applicants by March 1 before the subsequent school year starts, and, when the application is received, provide DOE with information about the student so that DOE may report the student for funding.³⁸

SFOs must develop a system for payment of benefits by electronic funds transfer, including, but not limited to debit cards, electronic payment cards, or any other means of electronic payment that DOE determines to be commercially viable or cost-effective.³⁹ Commodities or services related to the development of such a system must be procured by competitive solicitation or from a state term contract.⁴⁰

Private Schools

An eligible private school may be sectarian or nonsectarian, and must:⁴¹

- Comply with all requirements for private schools participating in the state school choice scholarship programs;
- Provide the SFO, upon request, all documentation required for the student's participation, including all the private school's and student's fee schedules;
- Be academically accountable to the parent for meeting the educational needs of the student;⁴²
- Employ or contract with teachers who have regular and direct contact with each student receiving a PLSA scholarship at the school's physical location; and
- Annually contract with an independent certified public accountant to perform agreed upon procedures, if the school receives more than \$250,000 in PLSA scholarship funds each year.

The inability of a private school to meet these requirements constitutes a basis for the ineligibility of the private school to participate in the program, as determined by DOE.⁴³

Department of Education

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

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ Section 1002.385(13)(d), F.S.

⁴⁰ *Id.*

⁴¹ Section 1002.385(8), F.S.

⁴² A private school must provide the parent a written explanation of the student's progress; if requested by a parent, annually administer, or make provision for students participating in the program in grades 3-10 to take one of the national norm-referenced tests identified by DOE or the statewide, assessments pursuant to s. 1008.22 (students with disabilities for whom standardized testing is not appropriate are exempt from this requirement); report the student's scores to the parent; and cooperate with the scholarship student whose parent chooses to have the student participate in the statewide assessments. Section 1002.385(8)(c), F.S.

⁴³ Section 1002.385(8), F.S.

program, and compare the list of students participating in the program with the public school enrollment lists before each program payment to avoid duplicate payments.⁴⁴

The State Board of Education is required to adopt rules to administer the program.⁴⁵

Commissioner of Education

The Commissioner of Education (Commissioner) is required to deny, suspend, or revoke a student's participation in the program or the use of program funds, if the student's health, safety, or welfare is in jeopardy or fraud is suspected.⁴⁶

The Commissioner may also deny, suspend, or revoke the use of program funds for material noncompliance with law and rules.⁴⁷ In making this determination, the Commissioner may consider factors such as acts or omissions that led to a previous denial or revocation; failure to reimburse an SFO for improperly received funds; imposition of prior criminal sanctions, civil fines, administrative fines, license revocation or suspension, program eligibility suspension, termination, or revocation related to an entity's management or operation; or other types of criminal proceedings in which there was a finding of guilt or no contest to offenses involving fraud, deceit, dishonesty, or moral turpitude.⁴⁸

School Districts

If requested by a parent, a school district must complete a matrix that assigns a level of service to a student with a disability who does not have a matrix.⁴⁹ The school district is required to complete the matrix within 30 days after receiving notice of the request, and provide the parent with the matrix level within 10 days thereafter.⁵⁰ The DOE is responsible for notifying the parent and SFO of the amount of funds awarded within 10 days of receiving the matrix level from the district.⁵¹ A school district may only change a matrix to correct a technical, typographical, or calculation error.⁵²

A school district is required to notify the parent of each eligible student that the matrix may be reevaluated every 3 years.⁵³

For each PLSA student who chooses to participate in the statewide, standardized assessment or the Florida Alternate Assessment, the school district must notify the student and parent about locations and times to take the assessments.⁵⁴

⁴⁴ Section 1002.385(9), F.S.

⁴⁵ Section 1002.385(18), F.S.

⁴⁶ Section 1002.385(10)(a), F.S.

⁴⁷ *Id.* The SBE adopted Rule 6A-6.0961, F.A.C., to administer the PLSA program, effective November 4, 2014.

⁴⁸ Section 1002.385(10)(b), F.S.

⁴⁹ Sections 1002.385(7)(a), and (11), F.S.

⁵⁰ Section 1002.385(7), F.S.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Section 1002.385(7)(c), F.S.

⁵⁴ Section 1002.385(7)(b), F.S.

Auditor General

The Auditor General must conduct an annual financial and operational audit related to the program.⁵⁵ As a part of this audit, the Auditor General must verify, at a minimum, the total amount of students served and eligibility of reimbursements made by each SFO and transmit that information to the department.⁵⁶ The department will be notified of any SFO that fails to comply with a request for information.⁵⁷

III. Effect of Proposed Changes:

The bill amends the Florida Personal Learning Scholarship Accounts Program (PLSA or program) by creating a new education fiscal intermediary (EFI) to act as the administrative agent for the program, expanding the pool of eligible students, tightening program accountability requirements, streamlining program implementation, increasing the Department of Education's (DOE) responsibilities for implementation of the program, and clarifying program implementation.

PLSA Program Accountability Requirements

The bill:

- Clarifies that authorized expenditures are for “educational purposes;”
- Adds authority for PLSA funds to be used for part-time private tutoring from persons meeting specified requirements (e.g., certified teacher and special skills);
- Clarifies that interest accrued in a PLSA account remains in the PLSA account for the parent to use for authorized purposes and is treated the same as PLSA funds if moneys get reverted;
- Adds a requirement that the Auditor General must provide a copy of EFI operational audits to the Commissioner of Education (Commissioner), and streamlines Auditor General audit responsibilities by removing duplicative reporting requirements; and
- Creates a new requirement that a physician licensed under chapter 458⁵⁸ or 459⁵⁹ must approve specialized services to be provided by an approved provider.
- Requires the Department of Education (DOE) to annually report the PLSA program's scope and size with regard to student participation, and to analyze the effectiveness of PLSA relating to cost, education, and therapeutic services.

PLSA Program Implementation

The bill:

- Creates an education fiscal intermediary (EFI) to act as the PLSA administrative agent and expands the types of entities that may compete to become an EFI, to include school district direct support organizations, state universities, Independent Colleges and Universities of Florida (ICUF) institutions, and certain charitable organizations.

⁵⁵ Section 1002.385(14), F.S.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Chapter 458, Florida Statutes, relates to medical practice.

⁵⁹ Chapter 459, Florida Statutes, relates to osteopathic medicine.

- Requires the DOE to issue a competitive solicitation for one or more EFIs, and to verify the EFI's compliance with law and contract.
- Retains accountability and transparency requirements that previously applied to SFOs for the newly created EFIs.
- Includes a transition process by which existing SFOs may continue to be the administrative agent for PLSA until the DOE EFI contracts are in place.
- Revises annual deadlines, beginning with 2015-16 academic year awards, to prioritize funding for renewal applications, the previous year's wait-listed students, timely-filed new applications, and then late-filed applications. For example, PLSA funding for the 2015-2016 academic year is prioritized as follows: renewal applications timely submitted by February 1, 2015; new applications submitted by June 30, 2015; and late-filed applications submitted by August 15, 2015. New or revised matrix of services are included with "completed applications;"⁶⁰ and
- Adds new requirements for:
 - Parents to provide "final verification"⁶¹ of eligibility to EFIs in order to receive funding and confirm compliance with all requirements;
 - 100 percent of program funds to be released to EFIs in the first quarter of each year so parents have access to all funds as early in the fiscal year as possible;
 - "Wait list"⁶² applicants to be given preference for initial program participation;
 - EFIs to annually notify program participants of ability to request new or revised matrix of services annually; and
 - Private schools that wish to participate in PLSA to include within their John M. McKay or Florida Tax Credit scholarship program applications, a notification of PLSA participation.

⁵⁹ The bill describes a "completed application" as including, but not limited to, an application, required documentation and forms, an initial or revised matrix of services (if requested), and any additional information or documentation required by the SFO or in State Board of Education rule.⁶¹ The bill describes "final verification" as consisting only of the following items that apply to the student: a completed withdrawal form from the school district, if the student was enrolled in a public school before the determination of program eligibility; a letter of admission or enrollment from an eligible private school in which the student wishes to participate; a copy of the notice of the parent's intent to establish and maintain a home education program required by s. 1002.41(1)(a), F.S., or a copy of the district school superintendent's review of the annual educational evaluation of the student in a home education program required by s. 1002.41(2), F.S.; or a copy of the notification from a private school that the student has withdrawn from the John M. McKay Scholarships for Students with Disabilities Program or the Florida Tax Credit Scholarship Program.

⁶¹ The bill describes "final verification" as consisting only of the following items that apply to the student: a completed withdrawal form from the school district, if the student was enrolled in a public school before the determination of program eligibility; a letter of admission or enrollment from an eligible private school in which the student wishes to participate; a copy of the notice of the parent's intent to establish and maintain a home education program required by s. 1002.41(1)(a), F.S., or a copy of the district school superintendent's review of the annual educational evaluation of the student in a home education program required by s. 1002.41(2), F.S.; or a copy of the notification from a private school that the student has withdrawn from the John M. McKay Scholarships for Students with Disabilities Program or the Florida Tax Credit Scholarship Program.

⁶² For initial program participation (i.e., excluding renewing students), the bill requires that a preference first be provided to students retained on a waiting list created by a SFO. The waiting list must be in the order that completed applications are received by the SFO.

DOE Responsibility to Implement the PLSA Program

The bill:

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

PLSA Program Administration

The bill:

- Expands student eligibility to include all students on the autism spectrum, per the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5),⁶³ students with muscular dystrophy, and to students who are, or will be, 3 or 4 years old on or before September 1 and meet all other eligibility requirements, which expands the pool of persons potentially eligible for a scholarship.
- Clarifies that a 3 or 4 year old child may not receive a Personal Learning Scholarship Account (PLSA) and services that are funded through the Florida Education Finance Program or Voluntary Prekindergarten Program (VPK) funds at the same time.
- Adds an option for parents to use PLSA funds for services available from providers outside the State of Florida who meet similar regulation or approval requirements compared to in-state providers for specialized services.
- Clarifies that kindergarten students approved via "high-risk" status must re-qualify under one of the other disability categories when he/she reaches age 6 in order to renew program participation.

⁶³ The DSM-5 is the reference manual used by health care professionals in the United States as the authoritative guide to the diagnosis of mental disorders. It provides a common language for clinicians to communicate about their patients and establishes consistent and reliable diagnosis that can be used in the research of mental disorders. American Psychiatric Association, DSM-5 Development, *Frequently Asked Questions*, <http://www.dsm5.org/about/pages/faq.aspx> (last visited February 12, 2015).

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

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Opportunity Scholarship Program was successfully challenged based on the adequacy of the public education system⁶⁴ and the no aid provision⁶⁵ of the Florida Constitution.⁶⁶ No other Florida school choice scholarship program has been declared unconstitutional.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

In 2014-15, approximately 1,400 students are expected to be awarded PLSA scholarships under this program at a cost of about \$14 million. The bill increases number of students potentially eligible for a scholarship by including all students on the autism spectrum, students with muscular dystrophy, and expanding eligibility to three and four year-olds. An estimated 860 additional autism spectrum students could participate in the program under the expanded definition, which would cost an additional \$8.6 million. An estimated 480 three and four year-olds could be eligible to participate in the program at an additional cost of \$4.8 million. The estimated fiscal impact for students with muscular dystrophy is minimal. Since scholarships awarded under the program are on a first-come, first-served basis, the number of students receiving a scholarship is limited by the funds appropriated in the General Appropriations Act. The Senate's proposed General Appropriations Bill for Fiscal Year 2015-2016, SB 2500, appropriates \$50 million for the PLSA program.

⁶⁴ Article IX, s. 1, Fla. Const., providing that "[a]dequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people require."

⁶⁵ Article I, s. 3., Fla. Const., providing that "[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution."

⁶⁶ See *Bush v. Holmes*, 886 So.2d 340 (Fla. 1st DCA 2004), affirmed on other grounds, 919 So.2d 392 (Fla. 2006).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 1002.385, 1009.971, 1009.98 and 1009.981.

The bill creates section 1002.384 of the Florida Statutes.

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

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

CS by Appropriations on March 25, 2016:

The committee substitute:

- Adds muscular dystrophy to the list of allowed disabilities.
- Clarifies that a 3 or 4 year old child may not receive a Personal Learning Scholarship Account (PLSA) and services that are funded through the Florida Education Finance Program or Voluntary Prekindergarten Program (VPK) funds at the same time.
- Requires the Department of Education (DOE) to annually report the PLSA program's scope and size with regard to student participation, and to analyze the effectiveness of PLSA relating to cost, education, and therapeutic services.
- Creates an Education Fiscal Intermediary (EFI) to act as the PLSA administrative agent, rather than Scholarship Funding Organizations (SFOs) as currently authorized in law.
- Expands the types of entities that may compete to become an EFI, to include school district direct support organizations, state universities, ICUF institutions, and certain charitable organizations.
- Requires the DOE to issue a competitive solicitation for one or more EFIs, and to verify the EFI's compliance with law and contract.
- Retains accountability and transparency requirements that previously applied to SFOs for the newly created EFIs.
- Includes a transition process by which existing SFOs may continue to be the administrative agent for PLSA until the DOE EFI contracts are in place.
- Expands authorized use of PLSA funds to include the Florida College Savings Program and requires the Florida Prepaid College Board to create rules and procedures to ensure accountability.
- Allows prepaid college plan or college savings plan funds to be used for fees at a program designed for students with disabilities conducted by a state postsecondary institution.

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B. Amendments:

None.

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