

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.

59

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

61

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

64 1002.385 Florida personal learning scholarship accounts.—

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

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

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

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

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

78 (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).

HB 7095

2015

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

HB 7095

2015

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.

HB 7095

2015

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:

HB 7095

2015

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.